THE AJMER CODE.

PREFACE TO THIRD EDITION.

THIS, the third edition of the Ajmer Code, consists of the local enactments in force in Ajmer-Merwara. As in the previous local Codes prepared in the Legislative Department, it has been arranged in parts according to classes of enactments. The first part contains the Bengal Regulations in force in Ajmer-Merwara, in Part II are printed such of the Acts passed by the Governor General in Council as are in force there but are not of general application throughout British India, and in Part III are given the Regulations which have been made specially for the Province under the Government of India Act, 1870 (33 Vict., c. 3). In a separate appendix a statement is set out in which will be found a list of such enactments as have been applied or extended to Ajmer-Merwara by notifications issued under the Scheduled Districts Act, 1874 (XIV of 1874).

The Acts of the Governor General in Council which apply to Ajmer-Merwara in common with the rest of British India are printed in the volumes of General Acts published by the Legislative Department.

2. A chronological Table of all the enactments now in force in Ajmer-Merwara is prefixed to the volume. In this table the Bengal Regulations are shown (col. 4) as affected by legislation passed subsequent to the Ajmer Laws Regulation, 1877 (III of 1877). It is in virtue of this Regulation that the Bengal Regulations now in operation there are in force in Ajmer-Merwara; that is, the Bengal Regulations as they stood on the statute book at the time Regulation III of 1877 became law. The enactments by which they were affected prior to that Regulation are however referred to in the footnotes printed *in loco* in the body of the Code. An Index has been added at the end of the volume.

3. Regulation 4 of 1903 which repeals the Diwan's Estate Regulation, 1887 (III of 1887), is spent. It is not therefore reproduced in this volume.

4. The Gazette of India, Part II, is now the local Gazette for the Province. The Rajputana Official Gazette, in which local notifications, rules and orders under enactments in force in the Province were formerly published, ceased to issue after the 25th September, 1880.

5. This volume has been prepared and passed through the Press with the assistance of Mr. G. R. Ridge, Superintendent of the Publication Branch of the Legislative Department.

J. MORISON,

Personal Assistant to the Secretary,
Legislative Department.

CALCUTTA;
The 15th January, 1905.

CHRONOLOGICAL TABLES.

PART I.—BENGAL REGULATIONS[1] IN FORCE IN AJMER-MERWARA.

Year.	No.	Short title or subject.	How affected in Ajmere-Merwara by Reg. 3 of 1877[2] or by subsequent legislation.	Page.
1799	V	The Bengal Wills and Intestacy Regulation, 1799, ss. 4 to 6.	Rep. in part, Act 12 of 1891 Modified, Reg 3 of 1877.	1
1804	X	The Bengal State Offences Regulation, 1804.	Rep in part, Act 12 of 1891.	2
1806	XI	The Bengal Troops Transport and Travellers Assistance Regulation, 1806, ss. 2 to 6, 8.	Rep. in part, Act 12 of 1891 and amended, Act 5 of 1897. Modified, Reg. 3. of 1877.	4
1810	XIX	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	Rep in part and amended, Act I of 1903 Modified, Reg 3 of 1877.	9
1812	XI	The Bengal Foreign Immigrants Regulation, 1812.	Amended, Act 5 of 1897. " 13 of 1898. " 1 of 1903. Modified, Reg. 3 of 1877.	13
1818	III	The Bengal State Prisoners Regulation, 1818.	Rep. in part, Act I of 1903. Amended, Act 12 of 1891.	15
1825	VI	The Bengal Troops Transport Regulation, 1825.	Rep. in part, Act 1 of 1903. Modified, Reg. 3 of 1877.	18
1827	V	The Bengal Attached Estates Management Regulation, 1827.	Rep. in part and amended, Act I of 1903; Modified, Reg. 3 of 1877.	20

[1] See s. 3 and Sch. II of Reg. III of 1877, *infra*.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN AJMER-MERWARA.

Year.	No.	Short title or subject.	How repealed or otherwise affected in Ajmere-Merwara by legislation.	Page.
1856	XX	The Bengal Chaukidari Act, 1856.	Rep. in part, Act 14 of 1870; Act 10 of 1872, and amended, Act 22 of 1871; Act 12 of 1891; Rep., locally, Reg. 5 of 1886, s. 17 (2). Extension of, to Cantonments, Act XV of 1910, s. 16.	24
1867	III	The Public Gambling Act, 1867.	Rep. in part, Act 16 of 1874. ,, Act 17 of 1914. Amended, Act 12 of 1891. ,, Act 1 of 1903.	40
1871	XXII	The Bengal Chaukidari (Amendment) Act, 1871.	Rep. in part, Act 12 of 1891.	45
1875	XV	The Punjab Laws (Amendment) Act, 1875.	Rep. in part, Act 12 of 1891. ,, ,, Act 17 of 1914.	46
1878	XVII	The Northern India Ferries Act, 1878.	Rep. in part, Act 12 of 1891. ,, ,, Act 2 of 1901. Amended, Act 3 of 1886.	51
1879	XIV	The Hackney Carriage Act, 1879.	Rep. in part, Act 13 of 1889. ,, ,, Act 17 of 1914. Amended, Act 1 of 1903. Rep. in part and amended, Act 4 of 1914.	59
1880	XIII	The Vaccination Act, 1880	Rep. in part and amended, Act 4 of 1914.	64
1882	V	The Indian Easements Act, 1882.	Amended, Act 12 of 1891. ,, Act 10 of 1914.	73
1886	III	The Northern India Ferries Act (Amendment) Act, 1886.		94
1887	XVII	The Punjab Land Revenue Act, 1887 (ss. 33 to 40, 44 to 46 and 98).		95
[1]1907	*IV*	*The Repealing and Amending (Rates and Cesses) Act, 1907.*	*Spent in Ajmere-Merwara.*	*Not republished.*

[1] Act IV of 1907, Schedule, Part G, repealed the Ajmere Patwari Regulation, 1895 (III of 1895), and is therefore spent in Ajmer-Merwara.

PART III.—REGULATIONS MADE UNDER THE [1] GOVERNMENT OF INDIA ACT, 1870 (33 VICT., CAP. 3), IN FORCE IN AJMERE-MERWARA.

Year.	No.	Short title or subject.	How repealed or otherwise affected in Ajmere-Merwara by legislation.	Page.
1872	IV	[2] The Ajmere Talukdars' Relief Regulation, 1872.		100
1874	VI	The Ajmere Forest Regulation, 1874.		110
1877	I	The Ajmere Courts Regulation, 1877.	Rep. in part, Act 9 of 1887; " Act 6 of 1888, s. 9. " and amended, Reg. 9 of 1893. Reg. 2 of 1914. Reg. 1 of 1910 Amended, Reg. 9 of 1890. Reg. 7 of 1897.	116
"	II	The Ajmere Land and Revenue Regulation, 1877.	Rep. in part, Reg. 1 of 1888; " locally, Reg. 3 of 1893. Amended, Reg. 9 of 1893. " Reg. 5 of 1907. Rep. in part and amended, Reg. 2 of 1914.	130
"	III	The Ajmere Laws Regulation, 1877.	Rep. in part, Act 3 of 1879; " Act 10 of 1882; " Act 12 of 1882; " Act 13 of 1889; " Reg. 9 of 1893; " and amended, Reg. 2 of 1914	155
1886	V	[3] The Ajmere Municipalities Regulation, 1886.	Rep. in part, Reg. 1 of 1905; " and amended, Reg. 9 of 1893; Reg. 2 of 1914.	171
"	VI	The Ajmere Rural Boards Regulation, 1886.	Amended, Reg. 9 of 1893.	214
1887	VIII	The Ajmere Irrigation Regulation, 1887.	Amended, Reg. 2 of 1914.[4] " Act 4 of 1914.[4]	223
1888	I	The Ajmere Government Wards Regulation, 1888.	Rep. in part, Reg. 2 of 1914.	227
1890	IX	The Ajmere Courts (Amendment) Regulation, 1890.		233

[1] See now s. 71 of the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61), which has repealed and re-enacted the Statute of 1870.

[2] This short title was given by Notfn. No. 13, dated 11th October 1873, in Gazette of India, 1875, Pt. I, p. 529.

[3] The same Hindi amendment was made by Act 4 of 1914 and Reg. 2 of 1914.

PART III.—REGULATIONS MADE UNDER THE [1]GOVERNMENT OF INDIA ACT, 1870 (33 VICT., CAP. 3), IN FORCE IN AJMERE-MERWARA—*contd.*

Year.	No.	Short title or subject.	How repealed or otherwise affected in Ajmere-Merwara by legislation.	Page.
1892	I	The Ajmere and Merwara Private Forests Preservation Regulation, 1892.		233
1893	IX	The Ajmere Amending Regulation, 1893.	Rep. in part, Act 1 of 1903.	235
1895	IV	The Ajmere Village Sanitation Regulation, 1895.	Rep. in pt., Reg. 2 of 1914.	236
1905	*IV*	*The Duggar's Estate Regulation, 1905.*	*Spent.*	*Not republished.*
1905	I	The Ajmere Municipalities (Amendment) Regulation, 1905.		237
1907	V	The Ajmere Land and Revenue (Amendment) Regulation, 1907.		238
,,	VII	The Ajmere Courts (Amendment) Regulation, 1907.		238
1910	I	The Ajmere Courts (Amendment) Regulation, 1910.		239
1911	II	The Ajmere Talukdars Loan Regulation, 1911.	Rep. in part and amended, Reg. 2 of 1914.	239
1914	II	The Ajmere Repealing and Amending Regulation, 1914.		244
,,	III	The Ajmere Alienation of Land Regulation, 1914.		250
1915	I	The Excise Regulation, 1915.		257

[1] *See* now s. 71 of the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61), which has repealed and re-enacted the Statute of 1870.

Page.

APPENDIX.—Enactments declared in force in, or extended to, Ajmer-Merwara by notification under the Scheduled Districts Act, 1874 270

INDEX 285

THE AJMER CODE.

PART I:

BENGAL REGULATIONS IN FORCE IN AJMER-MERWARA.

BENGAL REGULATION V OF 1799.[1]

(THE BENGAL WILLS AND INTESTACY REGULATION, 1799.)

[*3rd May, 1799.*]

A Regulation to limit the interference of the Zilla [2] * * * Courts of Diwáni Adálat [3] in the execution of wills and administration to the estates of persons dying intestate.

If there be more heirs than one to the estate of a person dying intestate.

[4] **4.** If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on *a regular suit being preferred by the party out of possession, shall take good* and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

[1] Ss. 4, 5 and 6 of Ben. Reg. V of 1799 were declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Wills and Intestacy Regulation, 1799, see the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

[2] The words "and city" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

[3] The functions of the Court of Sadr Diwáni Adálat are in Ajmer-Merwara discharged by the Chief Commissioner, see Regulation III of 1877, s. 3 and Sch. II, *infra*.

In what cases Judge may appoint administrator for care and management of estate of intestate.

[1] **5.** In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorised and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from, and allowances paid to, administrators.

[1] **6.** In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Díwání Adálat,[2] to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

BENGAL REGULATION X OF 1804.[3]

(THE BENGAL STATE-OFFENCES REGULATION, 1804.)

[*14th December, 1804.*]

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.

Preamble.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to

[1] Ss. 5 and 6 are modified by Ben. Reg. V. of 1827, *infra*.

[2] The functions of the Court of Sadr Díwání Adálat are in Ajmer-Merwara discharged by the Chief Commissioner, *see* Regulation III of 1877, Second Schedule, *infra*.

[3] Ben. Reg. X of 1804 was declared in force in Ajmer-Merwara by Reg. III of 1877, s. 3, *infra*. Short title, the Bengal State Offences Regulation, 1804, *see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government;

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the government of the Presidency of Fort William, the Governor General in Council should declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified;

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the government of the Presidency of Fort William, from the date of its promulgation.

2. The Governor General in Council is hereby * * * [1] empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal Courts of Judicature within any zila, district, city or other place, within any part of the British territories subject to the government of the Presidency of Fort William, and to establish martial-law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Power in time of war to suspend functions of ordinary criminal Courts, and establish martial-law;

and to direct immediate trial by courts-martial of persons offending against the Regulations.

3. * * * * * [2]Any person born or residing under Hindu or Muhammadan law, who, in violation of the allegiance declared to be due to the British Government within the territories aforesaid and exempted by consequently owing allegiance to the said Government, who, in violation of

[1] The words "declared to be" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

[2] Words repealed by Act XII of 1891 are omitted.

Courts-martial of persons specified in section 2

Liable to immediate punishment of death;

the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial-law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

BENGAL REGULATION XI OF 1806.[1]

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS ASSISTANCE REGULATION, 1806.)

[*3rd July, 1806.*]

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories. *

* * * * *[2]

Notice to be given to Collectors and Magistrates by officers commanding detachments;

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the Revenue of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

[1] Ss. 2 to 6 and s. 8 of Ben. Reg. XI of 1806 (with the exception of such part as authorizes Collectors and their Native officers or Magistrates and their Police-officers to give their official aid in procuring *coolies* for the purpose of facilitating the march of troops or the progress of travellers) were declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Troops Transport and Travellers Assistance Regulation, 1806, *see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

[2] The rest of the title was repealed by Act XII of 1891.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nalas intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. * * * * * *[1]

Procedure of Collector on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsildárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march, without any impediment or delay.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, coolies,[2] boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.[3]

Rates for supplies furnished to

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided;

and [illegible]

to inquire into and redress complaints against persons under their command.

thre[illegible] diat[illegible] pers[illegible] such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer when troops are provided with boats, etc.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsildár or other persons, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number

[1] Words repealed by Act V of 1867 are omitted.

[2] So far as it relates to coolies, the section does not apply to Ajmer Merwara, see Regulation III of 1877, s. 3, *infra*.

[3] As to fine for disobeying requisition under s. 3, see Ben. Reg. VI of 1825, *infra*.

of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the persons receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account and vouchers to be sent by Collector with his report to Government.

Third.—When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1] [Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1] [Local Government] will pass such final order as may appear proper.

Collector may pay charge if reasonable.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure for landholders, etc., sustaining injury, from march or encampment.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate by commanding officer.

[1] Substituted for the words "Governor General in Council" by Act V of 1897, General Acts, Vol. VI.

Second.—If the proprietor, farmer, tenant or manager, after receiving such Certificate certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakil) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue,[1] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2, the Magistrate shall transmit orders to the several police-daroghas, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective juri-dictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Procedure by Magistrate on receiving notice mentioned in section 2.

* * * * * * *

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other persons (whether European or Native) not restricted by Government from passing throughout the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route.

Police escort, cases of necessity, to be reported within ten days.

Assistance to travellers.

[1] The powers of the Board of Revenue are in Ajmer-Merwara exercised by the Chief Commissioner, see Reg. III of 1877, Second Schedule, *infra*.

[2] Sections 3, 4, 5 and 7 which is not in force in Ajmer-Merwara is omitted.

his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police, to aid him in providing any requisite bearers, *coolies*,[1] boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded.

On receiving an application of the above nature, the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: Provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*,[1] or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and carts and bullocks not to be employed in furnishing assistance.

But all police-officers are strictly forbidden, under pain of dismission from office, * * * * *[2] on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*,[1] or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*,[1] boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose, the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,[1] boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

BENGAL REGULATION XIX OF 1810.

CONTENTS.

SECTIONS.
1. Preamble.

[1] See footnote to s. 3, *supra*.
[2] Words repealed by Act XII of 1891 are omitted.

SECTIONS.

2. Superintendence of lands granted for support of mosques, etc.
3. Appropriation of endowments.
4. Disposal of ruined buildings.
5. Lands or public edifices not to be appropriated by individuals for private uses.
6. [*Repealed.*]
7. Superintendence of nazul property.
8. Appointment of local agents.
9. Collector to be *ex-officio* agent with others.
10. Agents to ascertain and report particulars of endowments, etc.;
11. also names, etc., of present trustees or
12. managers; and all vacancies or casualties with full information as to pretensions of claimants.
13. Agents to recommend fit persons in cases where nomination vests in Government.
14. Chief Commissioner to appoint such persons, or make other provision for trust.
15. Saving of private rights.
16. Object of Regulation.

BENGAL REGULATION XIX OF 1810.[1]

(THE BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS AND ESCHEATS REGULATION, 1810.)

[14th December, 1810.]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of * * * * * * colleges and other purposes; for the maintenance and repair of * * * * * public buildings; and for the custody and disposal of nazul property or escheats.

1. WHEREAS considerable endowments have been granted in land by the Preamble. preceding Governments of this country, and by individuals, for the support of

[1] Ben. Reg. XIX of 1810 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3 *infra*.
Short title, the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810, are the Repealing and Amending Act, 1903 (I of 1903), Second Code, Vol. I.

[2] Words repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

* * * *[1] colleges and for other * *[1] beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of * * * * *[1] buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of nazul property or escheats, the following rules have been enacted, to be in force from the period of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort William:

Superintendence of lands granted for support of public buildings.

2. The general superintendence of all lands granted for the support of * * * *[1]; colleges and for other * *[1] beneficial purposes, and of all public buildings, such as bridges, sarais, kattras and other edifices, is hereby vested in the [2] Board of Revenue * * * * *[1]

Appropriation of endowments.

3. It shall be the duty of the [2] Board of Revenue * * * *[1] to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted. In like manner, it shall be the duty of [the Board of Revenue][3] to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the [3] [Board] shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Lands or public edifices not to be appropriated by individuals for private uses.

5. Under the foregoing rules, it will of course be incumbent on the [2] Board of Revenue * * * * *[1] to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

[1] Words repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

[2] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner, *see* Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[3] The words "the Board of Revenue" in s. 3 were substituted for "those Boards" and the word "Board" in s. 4 for the word "Boards" by Act I of 1903.

6. [*Estimates of necessary repairs to be submitted to Government.*] *Rep. Ben. Reg. XVII of 1816, s. 16.*

7. The general superintendence of all nazul property or escheats is likewise hereby vested in the [1] Board of Revenue * * * * * *, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of. Superintendence of nazul property.

8. To enable the [1] Board of Revenue * * * * * * the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila subject to the authority, control and orders of [3] [the Board.] Appointment of local agents.

9. The Collector of the zila shall be *ex-officio* one of those agents with whom the [4] [Local Government] will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient. Collector to be *ex-officio* agent with others.

10. Under the provisions of the present Regulation, it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all nazul property or escheats and to report to the [1] Board * * * * * * * any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals. Agents to ascertain and report particulars of endowments, etc.;

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of mutawah or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations. also names, etc., of present trustees or managers;

12. The local agents will also report to the [5] [Board of Revenue] all vacancies and casualties which may occur, with full information of all circumstances, to enable the [5] [Board] to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been and all vacancies or casualties, with full information as to pretensions of claimants.

[1] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[2] Words repealed by Act I of 1903 are omitted.

[3] The words "the Board" were substituted in s. 8 for the words "those Boards respectively" by Act I of 1903.

[4] Substituted for "Governor General in Council" by the Repealing and Amending Act 1903 (I of 1903), Bengal Code, Vol. I.

[5] The words "Board of Revenue" and the word "Board" in s. 12 were substituted for "Superior Boards" and "Boards" respectively by Act I of 1903.

nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

Agents to recommend fit persons in cases where nomination vests in Government.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the [1] [Board of Revenue] a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

Chief Commissioner to appoint such persons or make other provision for trust.

14. On the receipt of the report and information required by the preceding clause, the [2] Board of Revenue * * * *[3] will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management, as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.

Saving of private rights.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, * * * * * * *[3] for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

[1] Substituted for "Superior Board" by Act I of 1903.

[2] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[3] Words repealed by Act I of 1903 are omitted.

BENGAL REGULATION XI OF 1812.[1]

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812.)

[18th July, 1812.]

A Regulation to empower the [Local Government][2] to order the removal of emigrants from foreign countries, and their descendants, *from any place in the vicinity of the frontier of the* State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble.

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the [2] [Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

2. Whenever the [2] [Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, Power to order removal of emigrants.

[1] Ben. Reg. XI of 1812 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Foreign Immigrants Regulation, 1812, *see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

[2] Substituted for "Governor General in Council" by Act V of 1897.

to parts of country deemed convenient.

who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [1] [Local Government] to order the removal of those persons to such other parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the [1] [Local Government] to order such removal, whenever [2] [it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1] [Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the [1] [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [1] [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the [1] [Local Government] necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestor may have emigrated, or any other foreign country, and shall excite, or attempt to excite disturbances in the said countries, shall be liable to be brought to trial for that offence,

[1] Substituted for the words "Governor General in Council" by Act V of 1897.

[2] The word "it" was substituted for "he" by the Burma Laws Act, 1898 (XIII of 1898), Sch. III, which applies to the whole of British India. *See* Burma Code.

and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal designs, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years: Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that if the Judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [to the Local Government and the Local Government shall pass such orders thereon as it may think fit] [1]: Proviso.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [Local Government] [2] from the exercise of the power vested in the Government by section 4 of [this Regulation] [3]

BENGAL REGULATION III OF 1818.[4]

(THE BENGAL STATE-PRISONERS REGULATION, 1818.)

[*7th April, 1818.*]

A Regulation for the confinement of State Prisoners.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under Preamble.

[1] Substituted for the words "to the Nizamat Adalat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper," by Act V of 1897.

[2] Substituted for the words "Governor General in Council" by Act V of 1897.

[3] Substituted for "the said Regulation" by the Repealing and Amending Act, 1903 (I of 1903), Bengal Code, Vol. I.

[4] Ben. Reg. III of 1818 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*. Its provisions have been supplemented by Acts XXXIV of 1850 and III of 1858, General Acts, Vol. I.

Short title, the Bengal State Prisoners Regulation, 1818, *see* s. 4 of the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others situated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant [1] of commitment shall be in the following form:—

To the [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*]; you are

[1] As to direction of warrant, *see* Act XXXIV of 1850, in General Acts, Vol. I. As to places in which a State prisoner may be confined, *see ib.*, also Act III of 1858, ss. 2 and 5, in the same volume.

hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B., Chief Secy. to Govt.*"

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Leaving custody of State prisoners to submit reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified, reported.

Officers in custody of Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila * * [1] Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of other officers, by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila * * [1] Magistrate, the Governor General in Council will instruct either the Zila * * [1] Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

State prisoners in custody of Magistrate to be visited by Representatives of State submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Reports to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Government to which he may be subjected appears liable to injure his health, and etc., of prisoners. whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support of State prisoners.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

[1] The words "or city" were repealed by s. 4 of the Repealing and Amending Act, 1903 (I of 1903), Bengal Code.

Attachment of estates by order of Government without decision of Court.

[1] **9.** Whenever the Governor General in Council for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [and][2] to the Sadr Díwání Adálat and Nizamat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to cases where Government orders release of estate from attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estates necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

BENGAL REGULATION VI OF 1825.[3]

(THE BENGAL TROOPS TRANSPORT REGULATION, 1825.)

[*4th April, 1825.*]

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

Preamble.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI. 1806,[4] that on receiving the notification mentioned in the preceding section,

[1] S. 8 was repealed by Act XVI of 1874 before the Regulation was applied to Ajmer-Merwara.

[2] Inserted by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

[3] Ben. Reg. VI of 1825 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Troops Transport Regulation, 1825, *see* s. 4 of the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

[4] *Supra*.

relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nalas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsildar or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

Penalty for landholders not providing supplies for troops, etc.

2. Any landholder, farmer, tahsildar or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI, 1806,[1] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nalas intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall on proof of such failure, neglect or disobedience to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand [2] rupees.

Collector to make summary enquiry.

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a

[1] *Supra.*

[2] The word "sikka" in s. 2 was repealed by s. 4 of the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code.

summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if on being duly summoned he shall attend in person or by vakil for that purpose;

if he shall fail to attend, either in person or by vakil, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how levied.

4. The Collector or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue:

Proviso as to appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the [1] Board of Revenue * * * * *[2] and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of appeal against fine.

5. Appeals from the orders of Collectors or other public officers adjudging fines under this Regulation may be preferred either immediately to the [1] Board * *[2] or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the [1] Board * * * * * *[2].

BENGAL REGULATION V OF 1827.[3]

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827.)

[*27th December, 1827.*]

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors

[1] The powers of the Board of Revenue are in Ajmer-Merwara exercised by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[2] Words repealed by Act I of 1903 are omitted.

[3] Ben. Reg. V of 1827 (with the exception of certain words and figures in s. 2) was declared in force in Ajmer-Merwara by Reg. III of 1877, s. 3, *infra*.

Short title, the Bengal Attached Estates Management Regulation, 1827, *see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

of land-revenue; the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification of Regulation as to management of attached estates.

2. The rules contained in sections 5 and 6, [1] Regulation V, 1799, * * * [2] regarding the administration and management of estates under orders of the Zila Courts, are hereby declared subject to the following modifications.

Issue of precept for holding estates under attachment and for appointing manager.

3. Whenever the Zila Courts may deem it just and proper, under the provisions of the [3] [Regulation] above-mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof:

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue,[4] and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to State property included in attachment.

4. The precept of the Zila Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

[1] *Supra.*

[2] Words and figures which were excepted on the application of the Regulation to Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule (*infra*), are omitted.

[3] Substituted for "several Regulations" by the Repealing and Amending Act, 1903 (I of 1903), s. 3, Bengal Code, Vol. I.

[4] The powers of the Board of Revenue are in Ajmer-Merwara exercised by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

PART II.

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN AJMER-MERWARA.

THE BENGAL CHAUKIDARI ACT, 1856.

[ACT XX OF 1856.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Existing assessment to be levied until revised.
2. To what places Act shall apply.
 Proviso.
3. Unions may be formed.
4. Government may define limits of cities, towns, etc.
5. Houses let to lodgers how to be assessed.
6. Penalty for removing, etc., name of street or number of house.
7. Magistrate to determine number of chaukidars.
 Proviso.
8. Grades and wages of chaukidars.
9. Magistrate to determine the sum to be raised annually.
10. Nature of tax to be levied.
11. Limitation of tax.
12. Rate how to be ascertained.
13. Magistrate may exempt occupiers unable to pay the assessment or rate.
14. Constitution of panchâyats.
 Magistrate may appoint a person not residing in the place to be a member of panchâyat.
15. Duties of panchâyat.
 Form of Magistrate's requisition.
16. Panchâyat may revise existing assessment or rate.
17. Magistrate may amend and settle assessment or rate as revised by the panchâyat.

SECTIONS.

18. Assessment or rate to be published.
19. Assessment or rate to stand good for one year.
Change of occupation before a new assessment or rate.
Revised assessment or rate to be deemed a new one.
Proviso.
20. Appeal from assessment or rate.
Limitation of appeal.
21. Commissioner may direct revision of assessment or rate.
22. Magistrate may direct revision at any time of the year, for reasons to be stated.
23. Publication of assessment or rate as revised under the two last sections.
24. Penalty for refusal to serve on panchâyat.
25. If panchâyat refuse or omit to act, Magistrate may assume their functions.
Proviso.
26. *Residents only bound to act on a panchâyat.*
27. Duration of panchâyat and limitation of service thereon.
28. Member of panchâyat removeable only on application of rate-payers.
29. Vacancies in panchâyat how to be supplied.
30. Panchâyat to report misconduct of chaukidars, or death or absence.
31. Appointment and duty of sadr panchâyat.
32. Appointment and registry of chaukidars.
33. Appointment of jemadars and inspectors.
34. Appointment of tax-collectors and other establishment.
35. Contingent expenses.
36. Surplus funds may be devoted to conservancy purposes.
37. Preparation of assessment-lists.
38. Collection of assessment.
39. Remittance of collections.
40. Preparations of summons, etc.
41. Report of defaulters to Magistrate.
42. Summons of defaulters.
43. Assessment to be levied from defaulters by distress and sale.
44. Sale how to be conducted.
Proceeds how to be applied.
Returns of sale.
Costs.
45. Penalty for tax-darogah purchasing at such sales.
46. Sale of property beyond limits of town, etc.
47. All goods found on premises liable to sale.
But owner of goods to be indemnified by the defaulter.
48. Penalty for obstructing tax-darogah in execution of duty.

SECTIONS.

49. Magistrates to try complaints against tax-darogah for extortion, etc.
Penalty for extortion, etc.
Proviso.
50. Powers, duties and liabilities of chaukidars, jemadars and inspectors.
51. Chaukidars to wear badges.
52. Duties of chaukidars—
to apprehend offenders;
to prevent nuisances;
to give intelligence of resort of thieves;
to examine and detain suspected persons.
53. All persons required to assist chaukidars in making arrests.
54. Chaukidars, etc., how to be paid.
55. Punishment of chaukidars for neglect of duty, etc.
56. Suspension or dismissal of police-officers.
57. Fines how to be disposed of.
58. *Repealed.*
59. Control over proceedings of Magistrate and Commissioner.
60. *Repealed.*
61. Interpretation of Act.

APPENDICES A to E.

ACT NO. XX OF 1856.[1]

[THE BENGAL CHAUKIDARI ACT, 1856.]

[*14th November, 1856.*]

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.

Preamble. WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukidars in cities, towns, stations, suburbs and bazars

[1] Short title, the Bengal Chaukidari Act, 1856, *see* the Repealing and Amending Act, 1903 (I of 1903), Bengal Code, 1913, Vol. I, p. 721.

Act XX of 1856 ceased to have effect in local areas which comprise a municipality and every panchâyat constituted under the Act for that local area ceased to exist, *see* s. 17 (2) of the Ajmer Municipalities Regulation, 1886 (V of 1886), *infra*.

For power to extend Act XX of 1856 to cantonments, *see* the Cantonments Act, 1910 (XV of 1910), s. 16, General Acts, Vol. VII.

in the [1] Presidency of Fort William in Bengal [and the territories under the administration of the Chief Commissioner of Oudh][2]; It is enacted as follows:—

Existing assessment to be levied until revised.

1. [3] * * * * * The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and until revised, altered under the provisions of this Act.

To what places Act shall apply.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bazars in the said Presidency [or territories][4] to which the [5] Local Government may, at any time, extend the same by notification [6] in the official Gazette: Provided always that this Act shall not be extended to any agricultural village.

Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.

Unions may be formed.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazar, or any part or parts of a city, town, suburb, station, or bazar, with any other city, town, suburb, station, or bazar, or part or parts of a city, town, suburb, station, or bazar, and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazar shall apply to such union.

Government may define and declare limits of union cities, towns, etc.

4. For the purposes of this Act the Local Government may define and declare [6] the limits of any city, town, suburb, station, bazar, or union, and all occupiers of houses within any such city, town, suburb, station, bazar, or union, and as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazar, or union.

How to be assessed.

5. If any house be let out in portions to different persons, or be let out to lodgers or travellers, the person who shall so let the same, or to lodgers who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for non-notice of change of tenants or number of lodgers.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying of street etc., names and of houses.

[1] In 1832 Ajmere came under the administration of the North-Western Provinces of the Presidency of Fort William, under which it remained till 1871 when Ajmere and Merwara were formed into a Chief Commissionership. Merwara has been administratively attached to Ajmere since 1842. See the Imperial Gazetteer of India, Vol. V, pp. 142, 143.

[2] These words were inserted by the Oudh Laws Act, 1876 (XVIII of 1876), Sch. II.

[3] The first portion of this section, repealing Ben. Reg. XXII of 1816, s. 6 of Reg. VII of 1817, Reg. III of 1821, s. 4 of Reg. II of 1832 and Act XV of 1837, was repealed by the Repealing Act, 1870 (XIV of 1870).

[4] This section was substituted for the original section 2 by the Bengal Chaukidari (Amend. ment) Act, 1871 (XXII of 1871), s. 1, sales.

[5] These words were inserted by the Oudh Laws Act, 1876 (XVIII of 1876), Sch. II.

[6] For notification extending the Act to a town in Ajmere-Merwara and defining the limits of the town, see Ajmer Local Rules and Orders.

Constitution of panchá-yats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town, or other place as aforesaid, or when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof:

Magistrate may appoint a person not residing in the place to be a member of panchâyat.

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the panchâyat notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

Duties of panchâyat.

15. The panchâyat so appointed or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation or property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied and the amount payable monthly by such occupier.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

Form of Magistrate's requisition.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Panchâyat may revise existing assessment or rate.

16. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle assessment or rate as revised by the panchâyat.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the Appendix to this Act, or to the like effect, and written in the language of the province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy,

together with a like notification, at the nearest police thana; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Change of occupation before a new assessment or rate.

Revised assessment or rate to be deemed a new one. Proviso.

Every assessment or rate which shall be revised according to the provision of section 16 shall be deemed a new assessment or rate. Provided always that if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated who shall be dissatisfied with his assessment or rate or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

In case the Magistrate confirms the assessment or rate, he may award costs against the appellant.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court:

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of he name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner may direct revision of assessment or rate.

21. The Commissioner * * *,[1] with the consent of the Local Government, may, at any time, direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which in his opinion, render such revision necessary, and the Magistrate shall according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any time of the year, for reasons to be stated.

22. The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

[1] The words "of circuit" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20. Publication of assessment or rate as revised under the two last sections.

24. If any person appointed a member of a panchâyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees. Penalty for refusal to serve on panchâyat.

25. If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchâyat : If panchâyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the panchâyat shall not thereby absolutely cease and determine, but may be resumed at any time only not so as to invalidate any act done by the Magistrate under this section. Proviso.

26. No person shall be bound to act on a panchâyat unless he shall reside or carry on business within the limits of the district for which the panchâyat is to be appointed. Residents only bound to act on a panchâyat.

27. Every panchâyat shall be appointed for the period of one year, and no person shall be compelled to serve on a panchayat for more than one year at a time, or within less than three years after the expiry of previous service ; but nothing in this section shall prevent any person from being appointed to serve on a panchâyat at any time whatsoever with his own consent. Duration of panchâyat and limitation of service thereon.

28. If a majority of the persons assessed or rated in any district for which a panchâyat shall be appointed not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchâyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchâyat. Member of panchâyat removable on application of rate-payers.

29. If any vacancy shall occur among the members of a panchâyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 11 of this Act. Vacancies in panchâyat how to be supplied.

30. The panchayat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed which shall come to their knowledge ; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause. Panchâyat to report misconduct of chaukidars, deaths or absence.

Appointment and duty of sadr panchâyat.

31. In cities and large towns containing three or more divisions or districts the Magistrate may appoint a sadr panchâyat consisting of not less than five members, who may be selected either from the members of the local panchâyats or from any other residents of the city or town.

It shall be the duty of the sadr panchâyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district panchâyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukidars.

32. The chaukidars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed with the date of his appointment.

Appointment of jemadars and inspectors.

33. Subject to the approval of the Commissioner * * *[1] the Magistrate may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars:

Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars.

Appointment of tax-collectors and other establishment.

34. Subject to the approval of the Commissioner * * * *[1] the Magistrate may appoint one or more tax-collectors or darogahs, and such other servants as may be necessary for preparing, or assisting the panchâyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act.

The Magistrate shall take from every tax-collector or darogah such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the chaukidars, and for any other contingencies that may seem to him necessary.

Surplus funds may be devoted to conservancy purposes.

36. After paying the wages of the chaukidars, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner * * *[1], appropriate any sum which may be available, to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same.

Preparation of assessment lists.

37. The tax-darogahs shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed and the amount payable monthly by each person.

Collection of assessment.

[2]38. On such dates as may be fixed by the panchâyat for payment of instalments of the tax, the tax-darogah shall proceed in person or through

[1] The words "of circuit" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

[2] This section was substituted for the original section 38 by Act XXII of 1871, *infra*.

some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax; and for all sums so collected the darogah shall grant a receipt:

Provided that, with the sanction of the Commissioner * * *[1] previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

Remittance of collections.

39. The tax-darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the darogah a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukidari fund of the city, town, or place in or on account of which they are collected.

Preparation of summonses, etc.

40. The tax-darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. [On the tenth day after the day fixed for the payment of instalments of the tax,][2] or as soon after as possible, the tax-darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summons of defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Cutcherry of the Magistrate within a reasonable time, to be specified in the summons to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how to be conducted.

44. The tax-darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall

[1] The words "of cavil" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), Central Acts, Vol. IV.

[2] These words were substituted for the words "on the twentieth of each calendar month" by Act XXII of 1871, *infra*.

Proceeds how to be applied.

be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale. Costs.

The tax-darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act.

Penalty for tax-darogah purchasing at such sales.

45. Any tax-darogah or other servants appointed under this Act, and any chaukidar or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, etc.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

All goods found on premises liable to sale.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

But owner of goods to be indemnified by the defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same:

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-darogah in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-darogah or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove, or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-darogah for extortion, etc.

49. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any tax-darogah or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty.

Penalty for extortion, etc.

On proof of any such offence, the tax-darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without

labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Proviso.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of chaukidars, jemadars, and inspectors.

50. The chaukidars, and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of Police-officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for by this Act

The chaukidars and the jemadars and inspectors are in all respects subordinate to the Police-darogah of the thana within the limits of which they may be employed.

Chaukidars to wear badges.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place, or division for which he is appointed, engraved thereon.

Duties of chaukidars—

to apprehend offenders,

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised

to prevent nuisances,

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

to give intelligence of resort of thieves, etc.,

Third.—He shall give immediate intelligence to the Police-darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

to examine and detain suspected persons.

Fourth.—He may stop, examine, and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police station.

All persons required to assist chaukidars taking arrests.

53. If a chaukidar or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukidars, etc., how to be paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and the jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the Police-darogah or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose; and the darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of chaukidars for neglect of duty, etc.

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of police officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how to be disposed of.

57. All fines levied under this Act shall be credited to the chaukidari fund and held available for the purposes of this Act.

58. [*Jurisdiction of Magistrates.*] *Rep. Act X of 1872.*

Control over proceedings of Magistrate and Commissioner.

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner * * * [1]; and all the proceedings of the Commissioner * * * [1] shall be subject to the control of the Local Government.

60. [*Act not to apply to Calcutta.*] *Rep. Act XII of 1891.*

Interpretation of Act.

61. Wherever in this Act, or in any Appendix thereto, there is nothing in the context requiring a different interpretation—

The word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The word "house" shall include any shop or warehouse.

The word "bazar" shall mean any place of trade where there is a collection of shops or warehouses.

The word "district" shall mean a city, town, bazar, or union, or any division thereof.

The expression "Police-darogah" shall include any tahsildar or naib-tahsildar entrusted with Police-jurisdiction.

[1] The words "of circuit" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

APPENDIX A.[1]

To

[*Here insert the names, places of abode, business, or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (*here describe the city, town, place, or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances, and the property to be protected, of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukidar of the lowest grade*) * * * * *[2]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

[1] See section 13 *supra*.

[2] Words repealed by Act XXII of 1871 (*infra*) are omitted.

APPENDIX B.[1]

To

[*Here insert the names, places of abode, business, or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops, and buildings and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place, or division*) for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the

[1] *See* section 15, *supra*.

property, the annual rate, and the quota payable monthly ; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.[1]

An assessment (*or rate, as the case may be,*) made for (*here describe the city, town, village, or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukidars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or quarterly*) assessment (*or rate*).

Whereas the above assessment (*or rate, as the case may be,*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of the several persons whose names are included in the said assessment (*or rate*) are hereby required to pay the monthly (*or quarterly*) contributions set opposite to their names with regularity to the tax-darogah or other person appointed by the Magistrate to receive the same * * *[2] (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or rated*) and

[1] *See* section 18, *supra.*

[2] Words repealed by Act XXII of 1871 (*infra*) are omitted.

such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.[1]

1	2	3	4	5	6	7	8	9	10	11
District	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance,

[1] *See* section 44, *supra*.

APPENDIX E.[1]

Table of Fees payable in distraints under this Act.

Sum distrained for.	Fee. Rs.	A.	P.
Under 1 Rupee	0	4	0
1 and under 3 Rupees	0	8	0
3 „ 5 „	1	0	0
5 „ 10 „	1	8	0
10 „ 15 „	2	0	0
15 „ 20 „	2	8	0
20 „ 25 „	3	0	0
25 „ 30 „	3	8	0
30 „ 35 „	4	0	0
35 „ 40 „	4	8	0
40 „ 45 „	5	0	0
45 „ 50 „	5	8	0
50 „ 60 „	6	0	0
60 „ 80 „	7	8	0
80 „ 100 „	9	0	0
Above 100	10	0	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

THE PUBLIC GAMBLING ACT, 1867.

[ACT III OF 1867.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
2. Power to extend Act.
3. Penalty for owning or keeping, or having charge of, a gaming-house.
4. Penalty for being found in gaming-house.
5. Power to enter and authorize Police to enter and search.
6. Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.
7. Penalty on persons arrested for giving false names and addresses.
8. On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

[1] *See* section 44, *supra*.

9. Proof of playing for stakes unnecessary.
10. Magistrate may require any person apprehended to be sworn and give evidence.
11. Witnesses indemnified.
12. Act not to apply to certain games.
13. Gaming and setting birds and animals to fight in public streets. Destruction of instruments of gaming found in public streets.
14. Offences by whom triable.
15. Penalty for subsequent offence.
16. Portion of fine may be paid to informer.
17. Recovery and application of fines.
18. [*Repealed.*]

ACT No. III OF 1867.[1]

[THE PUBLIC GAMBLING ACT, 1867.]

[*25th January, 1867.*]

An Act to provide for the punishment of public gambling and the keeping of common gaming houses in the [2]North-Western Provinces of the Presidency of Fort William, and in the Punjab, [2]Oudh, [3][and the Central Provinces].

Preamble. WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the [2]North-Western Provinces of the Presidency of Fort William, [and][4] of the

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1866, p. 976; for Report of the Select Committee, *see ibid*, 1867, Supplement, p. 44; and for Proceedings in Council, *see ibid*, 1866, p. 662, *ibid*, 1867, pp. 48 and 52.

Short title, the Public Gambling Act, 1867—*see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

The Act was extended, by notification of the Lieutenant-Governor of the North-Western Provinces, No. 346A., dated the 8th June, 1867, to the following towns of Ajmer-Merwara, namely, Ajmer, Bhinae, Kekree, Khurwah, Masuda, Nuseerabad, Nyanagar, Pisangun, Pokar, Ramsur, Sawur and Srinagar—*see* N.-W. P. Gazette, dated 31st July, 1867, p. 511.

[2] The North-Western Provinces and the province of Oudh are now known as the United Provinces of Agra and Oudh—*see* Proclamation No. 996P., dated 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

Ajmer and Merwara were under the administration of the North-Western Provinces of the Presidency of Fort William till 1871 when they were formed into a Chief Commissionership. Merwara has been administratively attached to Ajmer since 1842. *See* the Imperial Gazetteer of India, Vol. V, pp. 142, 143.

[3] The words "and the Central Provinces" were substituted for the words "the Central Provinces and British Burma" by the Repealing and Amending Act, 1903 (I of 1903), printed, Bengal Code, 1913, Vol. I.

[4] The word "and" was inserted by the Repealing and Amending Act, 1891 (XII of 1891), Sch. II, General Acts, Vol. IV.

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description[1] as defined in the Indian Penal Code, for any term not exceeding three months. XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,[1] as defined in the Indian Penal Code, for any term not exceeding one month; XLV of 1860.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district,[2] or other officer invested with the full powers of a Magistrate,[2] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or, by his warrant, authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

[1] *See* s. 53 of Act XLV of 1860, General Acts, Vol. I.
[2] *See* Act V of 1898, s. 3 (2) in General Acts, Vol. V.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming [1] are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who until the contrary is made to appear, or place is used as a common gaming-h were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants. Finding cards, etc., in suspected houses, to be *houses.*

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month. Penalty on persons arrested for giving false names and addresses.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of and other articles seized, not being instruments of converted into money, and the proceeds thereof with to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled. On conviction for *keeping a* gaming. destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake. Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid. Magistrate may require any person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or

[1] "Cowries" are not "instruments of gaming"—*Queen-Empress* v. *Bharoan*, I. L. R. 18, All. 23.

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description[1] as defined in the Indian Penal Code, for any term not exceeding three months. XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,[1] as defined in the Indian Penal Code, for any term not exceeding one month; XLV of 1860.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district,[2] or other officer invested with the full powers of a Magistrate,[2] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

[1] *See* s. 53 of Act XLV of 1860, General Acts, Vol. I.
[2] *See* Act V of 1898, s. 3 (2) in General Acts, Vol. V.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming [1] are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who until the contrary is made to appear, or place is used as a common gaming-h were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants. *Finding cards, etc., in suspected houses, to be* houses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month. *Penalty on persons arrested for giving false names and addresses.*

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled. *On conviction for keeping a gaming-house, instruments of gaming to be destroyed.*

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake. *Proof of playing for stakes unnecessary.*

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered u examined unlawful r place or any part thereof, of any *Magistrate may require any person*

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or

[1] "Cowries" are not "instruments of gaming"—*Queen-Empress* v. *Bharsani*, I. L. R. 18, All. 23.

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description[1] as defined in the Indian Penal Code, for any term not exceeding three months. XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,[1] as defined in the Indian Penal Code, for any term not exceeding one month; XLV of 1860.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district,[2] or other officer invested with the full powers of a Magistrate,[2] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

[1] *See* s. 53 of Act XLV of 1860, General Acts, Vol. I.
[2] *See* Act V of 1898, s. 3 (2) in General Acts, Vol. V.

Finding cards, etc., in suspected houses, to be *evidence that* such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming[1] are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or

[1] "Cowries" are not "instruments of gaming"—*Queen-Empress* v. *Bharsani*, I. L. R. 18, All. 23.

from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unfawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.[1] XLV of 1860.

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

~~12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.~~

Gaming and setting birds and animals to fight in public streets.

13. A Police-officer may apprehend without warrant—

any person found ~~playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill,~~ gaming in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

Exemption of games of mere skill.

13A. Nothing in this Act shall apply to any game of mere skill wherever played.

imprisonment, under [illegible]

calendar month;

Destruction of instruments of gaming found in public streets.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

13A. See attached slip

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

[1] General Acts, Vol. I.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure,[1] as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure,[2] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall, from time to time, direct.

18. [*Offences under this Act to be "offences" within meaning of* [Penal Code.] *Rep. Act XVI of 1874, section 1, and Schedule, Part I.*

ACT No. XXII OF 1871.[3]

[THE BENGAL CHAUKIDARI (AMENDMENT) ACT, 1871.]

[*1st August, 1871.*]

An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.

Preamble.

WHEREAS by Act No XX of 1856 [4] (*to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*), section 2, the Local Government is restrained from extending that Act to any city, town, suburb or bazar unless there be therein (or in some city, town, suburb or bazar with which the same may be united as thereinafter provided) a police-station

[1] *See* now Act V of 1898, General Acts, Vol. V.

[2] *See* now ss. 386, 387 and 389 of *ibid.*

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1870, Part V, page 493, and for Proceedings in Council, *see ibid*, 1870, Supplement, pp. 1328 and 1349; *ibid*, 1871, Supplement, p. 1077.

Short title, the Bengal Chaukidari (Amendment) Act, 1871, *see* the Repealing and Amending Act, 1903 (I of 1903), Bengal Code, 1913, Vol. I.

[4] *Supra.*

under an officer of a grade not below that of a jamadar; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section 2, Act XX of 1856.

1. Instead of the second section of the said Act, the following shall be read:—

[*Vide supra*, p. 25.]

Amendment of section 11.

2. Instead of section 11 of the said Act, the following shall be read:—

[*Vide supra*, p. 26.]

Amendment of section 38.

3. Instead of section 38 of the said Act, the following shall be read:—

[*Vide supra*, p. 30.]

Amendment of section 41.

4. In the 41st section of the said Act, instead of the words "on the twentieth of each calendar month," there shall be read the words "on the tenth day after the date fixed for the payment of instalments of the tax."

5. [*Repeal of parts of Appendices A and C.*] *Rep. Act XII of 1891.*

Construction.

6. This Act shall be read with, and taken as part of, the said Act XX of 1856. [1] * * * * * *

ACT No. XV OF 1875.[2]

[THE PUNJAB LAWS AMENDMENT ACT, 1875.]

[*15th July, 1875.*]

An Act to amend the Punjab Laws Act, 1872.

Preamble.

WHEREAS, in order to provide for the establishment of rural police and for the more efficient administration of law in the Punjab, it is expedient to amend the Punjab Laws Act, 1872 [3]; It is hereby enacted as follows:— IV of 1872.

Short title.

1. This Act may be called the Punjab Laws Amendment Act, 1875:

Local extent.

It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab [4];

[3] * * * * * * *

Addition to Act IV of 1872.

Power to establish village-watchman-system and to make rules.

2. The said Punjab Laws Act, 1872, [5] shall be read as if the following sections were inserted next after section 39 thereof:—

[6]"39A. The Local Government may establish a system of village-watchmen in any part of the territories under its administration and not comprised

[1] Words repealed by Act XII of 1891 are omitted.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1875, Part V, p. 8, and for Proceedings in Council, *see ibid*, 1874, Supplement, pp. 1985, 1988, and *ibid*, 1875, Extra Supplement, p. 1.

[3] The words "and it shall come into force at once" in section 1 were repealed by Act XVII of 1914, Sch. II.

[4] The Act was extended to Ajmer-Merwara by notification under the Scheduled Districts Act, 1874, "with the necessary verbal alteration for application to Ajmer-Merwara instead of to the Punjab," *infra*, Appendix.

[5] Act IV of 1872 does not apply to Ajmer-Merwara.

[6] Sections 39A and 39B as here printed are not now in force in the Punjab, new sections having been substituted for them by the Punjab Laws Amendment Act, 1881 (XXIV of 1881) which has not been extended to Ajmer-Merwara, its operation being limited to the Punjab.

within the limits of a municipality, and in furtherance of this object may from time to time make rules [1] to provide for the following matters:—

(*a*) the definition of the limits of watchmen's beats;

(*b*) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat;

(*c*) the appointment, suspension, dismissal and resignation of watchmen of each grade;

(*d*) the equipment and discipline of, and the control and supervision over, such watchmen;

(*e*) the conferring upon them, and the exercise by them, of any powers, and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police-officer under any Act for the time being in force;

(*f*) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village-communities within their beat, as the Local Government thinks fit;

(*g*) the exercise of authority over, and the rendering of aid to, such watchmen, by the headmen of the villages comprised in their respective beats;

(*h*) the performance, by the headmen of the villages comprised in the beat, of any of the duties of a village-watchman in aid of, or substitution for, such watchmen;

(*i*) the exercise, by such village-headmen, of any of the powers, and the enjoyment by them of any privilege or protection, of a village-watchman for the purposes referred to in clauses (*g*) and (*h*) of this section;

(*j*) the determination of the rate at which, and the mode in which, watchmen shall be paid, and of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchman system shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in or resorting to such villages, or partly in one of these ways and partly in the other;

(*k*) the collection with or without the aid of the village-headmen, and by any process available for the realization of the land revenue, of any tax imposed under clause (*j*) of this section, and the application of, and the mode of accounting for, the same;

(*l*) the efficient working of the village-watchman system generally:

"Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in

[1] For rules under s. 39A, *see* Vol. I of the Ajmer Local Rules and Orders.

the beat to which such a watchman is to be appointed, a power of nomination to be exercised in such manner, and subject to such reasonable conditions, as may be prescribed by such rules;

2ndly, that the rules to be made under clause (*j*) of this section shall include provisions for recording and securing due consideration of the views and opinions of the headmen of such beat on the matters therein referred to.

Obligation to assist watchmen and head-men.

"39B. Every person is bound to render to a village-watchman or village-headman discharging the duties of a police-officer under the rules made hereunder all the assistance which he is bound to render to a police-officer.

Person obstructing watchman or headman may be arrested without warrant.

"Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a police-officer or by any village-headman or watchman empowered in this behalf by the Local Government.

Power to direct local taxation for payment of police enrolled under Act V of 1861.

"39C. Whenever it seems to the Local Government expedient that the duties of watch and ward and other internal police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat, as defined under the power conferred by section 39A, should be performed by police-officers enrolled under Act V of 1861,[1] the Local Government may direct that the said service shall be so performed, and may also, with the previous sanction of the Governor General in Council, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village.

Issue of notice of taxes proposed to be levied.

"39D. When the Local Government has, under section 39C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village, explaining the nature of the taxes he proposes to levy.

Objections to taxation.

"Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner.

Procedure thereon.

"After the expiry of fifteen days from the publication of the notice the Deputy Commissioner may submit for the information of the Local Government a report of the proposal made by him. Such report shall contain specific mention of the objections (if any) urged to his proposal and his opinion on such objections.

"No such tax shall be levied until it has, upon such report, been approved by the Local Government.

Power to fix rates of tax.

"39E. When any such tax has been so approved by the Local Government, the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the Local Government may from time to time prescribe, determine the rates at which it is to be levied.

[1] The Police Act, 1861, General Acts, Vol. I.

Power to make rules for collection of taxes.

"39F. The Local Government may from time to time make rules to provide for the collection of such taxes by any process available for the realization of the land-revenue, and to regulate the application and mode of accounting for the same.

"39G. [*Validation clause.*] *Rep. Act XII of* 1891."

Substitution of new section for section 50.

3. Section 50 of the said Punjab Laws Act[1] is repealed, and in lieu thereof there shall be read the following :—

1872.

Power to make rules.

"50. The Local Government may from time to time make rules as to the matters mentioned in sections 43 to 49 inclusive.

Existing rules.

"All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.

Conditions of validity of rules hereafter made under this Act.

"50A. No rules hereafter made by the Local Government under any power conferred by this Act shall be valid unless—

(*a*) they are consistent with the laws for the time being in force in the Punjab ;

(*b*) they are published in the official Gazette ;

(*c*) previous to such publication they are sanctioned by the Governor General in Council.

Penalties for breach of such rules.

"50B. The Local Government may, in making any rule under any of the powers conferred by this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding six months' imprisonment, or three hundred rupees fine, or both."

THE NORTHERN INDIA FERRIES ACT, 1878.

[ACT XVII OF 1878]

CONTENTS.

PREAMBLE. I.—PRELIMINARY.

SECTIONS.
1. Short title.
Local extent.
Commencement.
2. Repeal.
3. Interpretation-clause.

[1] Act IV of 1872 is not in force in Ajmer-Merwara.

II.—Public Ferries.

4. Power to declare, establish, define and discontinue public ferries.
5. Claims for compensation.
6. Superintendence of public ferries.
7. Management may be vested in municipality ;
and proceeds paid into municipal fund.
8. Letting ferry-tolls by auction.
9. Recovery of arrears from lessee.
10. Power to cancel lease.
11. Surrender of lease.
12. Power to make rules.
13. Private ferry not to ply within two miles of public ferry without sanction.
14. Person using approaches, etc., liable to pay.
15. Tolls.
16. Table of tolls.
List of tolls.
17. Tolls, rents, compensation and fines how disposed of.
18. Compounding for tolls.

III.—Private Ferries.

19. Power to make rules.
20. Tolls.

IV.—Penalties and Criminal Procedure.

21. Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.
22. Penalty for taking unauthorized toll, and for causing delay.
23. Penalty for breach of rules made under sections 12 and 19.
24. Cancelment of lease on default or breach of rules.
25. Penalties on passengers offending.
26. Penalty for maintaining private ferry within prohibited limits.
27. Fines payable to lessee.
28. Penalty for rash navigation and stacking of timber.
29. Power to arrest without warrant.
30. Power to try summarily.
31. Magistrate may assess damage done by offender.

V.—Miscellaneous.

32. Power to take possession of boats, etc., on surrender or cancellation of lease.
33. Similar power in cases of emergency.

34. Jurisdiction of Civil Courts barred.
35. Delegation of powers.
36. [*Repealed.*]

ACT No. XVII OF 1878.[1]

[THE NORTHERN INDIA FERRIES ACT, 1878.]

[*9th November, 1878.*]

An Act to Regulate Ferries in Northern India.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh,[2] the Central Provinces, Assam and Ajmere and Merwara; It is hereby enacted as follows:— Preamble.

I.—PRELIMINARY.

1. This Act may be called the Northern India Ferries Act, 1878. Short title.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces[3] and the Chief Commissioners of Oudh,[3] the Central Provinces, Assam and Ajmere and Merwara. Local extent.

It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf. Commencement.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the[3] North-Western Provinces and the said Chief Commissioners,[4] Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act. Repeal.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing places of, a ferry. Interpretation clause.

[1] idh, *see* the United Provinces (Designation) Provinces of Agra and Oudh.

[4] So far as it affects Ajmer-Merwara, Ben. Regulation VI of 1819 was repealed by *s.* 2 (*a*) of the Ajmer Laws Regulation, 1877 (III of 1877), *infra*.

II.—Public Ferries.

Power to declare, establish, define and discontinue public ferries.

4. The Local Government may from time to time—

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate ;

(*b*) take possession of a private ferry and declare it to be a public ferry ;

(*c*) establish new public ferries where, in its opinion, they are needed ;

(*d*) define the limits of any public ferry ;

(*e*) change the course of any public ferry ; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette :

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the Gazette of India, and not otherwise :

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may from time to time, appoint by name or in virtue of his office in this behalf ;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality ; and proceeds paid into municipal fund.

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town ;

and may furtner direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town ;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Letting ferry-tolls by auction.

[1]**8.** The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 [*or section 7A*][2] then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may for reasons recorded in writing, refuse to accept the offer of the highest bidder and may accept any other bid, or may withdraw the tolls from auction.

Recovery of arrears from lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

[1] S. 8 was substituted by s. 1 of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*.

[2] S. 7A was inserted by the Central Provinces Local Self-Government Act, 1883 (I of 1883), and is not in force in Ajmer-Merwara. It has not therefore been printed here.

[1][(*b*) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted];

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(*1*) the number and kinds of such boats and their dimensions and equipment;

(*2*) the number of the crew to be kept by the lessee for each boat;

(*3*) the maintenance of such boats continually in good condition;

(*4*) the hours during which, and the intervals within which, the lessee shall be bound to ply; and

(*5*) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns or traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. [2][Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry]:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats [3][which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

[1] Cl. (*b*) was substituted by s. 1 (2) of Act III of 1886, *infra*.

[2] This paragraph in s. 13 was substituted by s. 2 of *ibid*.

[3] These words were inserted in section 13 by *ibid*.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry. Person using approaches, etc., liable to pay.

[1]**15.** Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service: Tolls.

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the [2][lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English in some conspicuous place near the ferry, Table of tolls.

and shall be bound to produce on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

17. Except as provided by section 7, all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows, that is to say:— Tolls, rents, compensation and fines how disposed of.

(*a*) in the territories administered by the Lieutenant-Governor of the North-Western Povinces,[3] the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878: [4]

III of 1878.

(*b*) in the territories administered by the Chief Commissioner of Oudh,[3] the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878: [5]

IV of 1878.

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation and fines shall be credited to the Local Government and applied in the first instance to defraying all charges incurred in carrying

[1] Act XV of 1873 has been repealed by C. L. Act V of 1900.

out this Act in those territories respectively, and shall then, at the discretion of the Local Government,—

(*i*) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883,[1] or XX of 1883.

(*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,[2] as the case may be, and, X of 1878.

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere Merwara, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort or convenience as the Local Government, subject to the control of the Governor General in Council, may from time to time direct.

Compounding for tolls.

18. The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—Private Ferries.

Power to make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or

[1] *See* the Punjab and N.-W. F. Code.

[2] Act XX of 1883 has been repealed in Sambalpur by Ben. Act I of 1911 and elsewhere by Act IV of 1907.

without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll; or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act; or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property; or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

[1]**26.** Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

Fines payable to lessee.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates paid to the lessee.

Penalty for rash navigation and stacking of timber.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend

[1] Substituted for the original section 26 by s. 2 (3) of Act III of 1886, *infra*.

to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to try summarily.

30. Any Magistrate or Bench of Magistrates, having summary jurisdiction under Chapter XVIII[1] of the Code of Criminal Procedure, may try any offence against this Act in manner provided by that Chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—Miscellaneous.

Power to take possession of boats, etc., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

[1] *See* now Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

35. The Local Government may, from time to time, delegate, under such restrictions, as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office. Delegation of powers.

36. [*Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

THE HACKNEY-CARRIAGE ACT, 1879.

[ACT XIV OF 1879.]

CONTENTS.

PREAMBLE.
SECTIONS.
1. Short title; saving.
2. Interpretation-clause.
3. Application of Act to municipalities.
Power of committees to make rules.
Confirmation and publication of rules.
Power of Commissioner to rescind rules.
4. Power to make rules for cantonments.
5. Power to extend operation of rules beyond limits of municipality or cantonments.
6. What rules under sections 3 and 4 may provide for.
7. Penalty for breach of rules.
8. Disposal of fees and payment of expenses.
9. Power of Magistrate to decide disputes regarding fares.
10. In case of dispute, hirer may require driver to take him to Court.

ACT No. XIV OF 1879.[1]

[THE HACKNEY-CARRIAGE ACT, 1879.]

[*5th September, 1879.*]

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments: It is hereby enacted as follows:— Preamble.

1. This Act may be called the Hackney-carriage Act, 1879: Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Part V, p. 52, and for Proceedings in Council, *see ibid*, Supplement, pp. 49, 78 and 1141.

* * * * * *[1]

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities,[2] or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3. [3][The Lieutenant-Governors of the United Provinces of Agra and Oudh and the Punjab and Burma, and the Chief Commissioners of the Central Provinces,] Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply [4] this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law [5] for the time being in force, it makes rules [6] or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the [Commissioner][7] and published for such time and in such manner as the [Commissioner][7] may, from time to time, prescribe, have the force of law:

Power of Commissioner to rescind rules.

Provided that the [Commissioner][7] may, at any time, rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may, from time to time,[8] * * * * * make [9] rules for the regulation and control of hack-

[1] The words "and it shall come into force at once" were repealed by Act XVII of 1914, Sch. II.

[2] For the law relating to municipalities in Ajmer-Merwara, *see* the Ajmer Municipalities' Regulation, 1886 (V of 1886), *infra*. Rules cannot be made under that Regulation in respect of vehicles to which Act XIV of 1879 applies, *see ibid*, s. 116 (*1*), proviso, *infra*.

[3] These words were substituted for the words "The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma," by the Repealing and Amending Act, 1903 (I of 1903), Bengal Code, 1913, Vol. I.

[4] For notification applying the Act to the Ajmer Municipality, *see* Gazette of India, 1881, Part II, p. 760.

[5] *See* the second footnote to section 1, *supra*.

[6] For rules relating to hackney-carriages in the Ajmer Municipality, *see* the Ajmer Local Rules and Orders.

[7] Substituted for the words "Local Government" by Act IV of 1914, Sch.

[8] The words "subject to the control of the Governor General in Council" were repealed by *ibid*.

[9] For rules relating to hackney-carriages in the Nasirabad cantonment, *see* the Ajmer Local Rules and Orders. *See* also Gazette of India, 1906, Part II, p. 1453.

ney-carriages in any military cantonment situated in the territory administered by it[1] * * * * *

All rules made under this section when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned:

Provided that such extension shall be made, in the case of a municipality, with the sanction of the [Commissioner],[2] and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*) prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things, are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

[1] from time to time make rules for India, but not in British India, ... Cantonments Act, 1889 (XIII of 1889), which has been repealed and re-enacted by Act XV of 1910, General Acts, Vol. VII.

[2] Substituted for the words "Local Government" by Act IV of 1914, Sch.

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorised by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.[1]

The decision of any Magistrate or bench in any case under this section shall be final.

[1] As to recovery of fines, *see* the General Clauses Act, 1897 (X of 1897), s. 25. General Acts, Vol. IV.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

THE VACCINATION ACT, 1880.

[ACT XIII OF 1880.]

CONTENTS.

PREAMBLE.
SECTIONS.
1. Short title.
Application
2. Interpretation-clause.
3. Extension of Act to municipalities.
4. Extension to cantonments.
5. Power to withdraw local area from operation of Act.
6. Prohibition of inoculation.
Inoculated persons not to enter without certificate local area subject to Act.
7. Vaccination-circles.
Vaccinators.
Superintendent of vaccination.
8. Private vaccinators.
9. Unprotected children to be vaccinated.
Vaccinator to vaccinate children, or deliver certificates of postponement.
10. Inspection after vaccination.
11. Procedure when vaccination is successful.
12. Procedure when vaccination is unsuccessful.

13. Procedure when child is unfit for vaccination.
Renewal of postponement certificates.
14. Certificates of insusceptibility of successful vaccination.
15. What lymph to be used.
16. No fee to be charged except by private vaccinator.
Proviso.
17. Duties of Superintendent of vaccination.
Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with.
Procedure when order not obeyed.
Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

ACT No. XIII OF 1880.[1]

[THE VACCINATION ACT, 1880.]

[*9th July, 1880.*]

An Act to give power to prohibit inoculation and to make the vaccination of children compulsory in certain Municipalities and cantonments.

Preamble. WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory in certain municipalities and cantonments; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Vaccination Act, 1880 : and

Application. it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the [2] Lieutenant-Governors of the North Western Provinces and the Punjab, and the [2] Chief Commissioners of Oudh, the Central Provinces, [3] British Burma, Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Pt. V, p. 80 ; for Report of Select Committee, *see ibid*, p. 205 and for Proceedings in Council, *see ibid*, 1879, Supplement, p. 1225 and *ibid*, 1880, Supplement, pp. 566, 1204.

[2] Now the Lieutenant-Governor of the United Provinces of Agra and Oudh.

[3] Now the Lieutenant-Governor of Burma.

Interpretation-clause.

2. In this Act unless there is something repugnant in the subject or context,—

"Municipal Commissioners."

(1) the expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any [1] enactment for the time being in force;

"parent."

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

"guardian."

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

"unprotected child."

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

"inoculation."

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

"vaccination-circle."

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination.

"vaccinator."

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized * * * * [2] in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination."

"vaccination season."

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like, notification effect the proposed [3] extension.

[1] For the law relating to Municipalities in Ajmere-Merwara, *see* Reg. V of 1886, *infra*.

[2] The words "by the Local Government" were repealed by Act IV of 1914, Sch.

[3] For notifications extending the Act to the Ajmere, Beawar and Kekri Municipalities, *see* the Ajmere Local Rules and Orders.

Extension to cantonments.

4. The Local Government may, [subject to the control][1] of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military [2] cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality or [subject to the control][1] of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The [3][Commissioner] may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of 6 months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum,

[1] Substituted for the words "with the previous sanction" by Act IV of 1914, Sch.

[2] For notification extending the Act to the Nasirabad Cantonment, *see* the Ajmere Local Rules and Orders.

[3] Substituted "for Local Government" by Act IV of 1914.

take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

11. When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected. Procedure when vaccination is successful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided. Procedure when vaccination is unsuccessful.

13. A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator: Procedure when child unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed. Renewal of postponement certificates.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated. Certificates of insusceptibility of successful vaccination

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act: What lymph to be used

Provided that,

1st, if animal lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act: No fee to be charged except by private vaccinator.

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the [1]Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make [2] rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the [3] law for the time being in force, the [Municipal][4] Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the [Commissioner][4] and published in the official Gazette, have the force of law:

Provided that the [Commissioner][4] may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such [5] rules.

[1] *See* the Code of Criminal Procedure (Act V of 1898), s. 3 (*2*), General Acts, Vol. V.

[2] For rules for the Ajmere Municipality, *see* the Ajmere Local Rules and Orders.

[3] For the law relating to Municipalities in Ajmere-Merwara, *see* Reg. V of 1886, *infra*.

[4] "Municipal" inserted and "Commissioner" substituted for "Local Government" by Act IV of 1914, Sch.

[5] For rules applicable to the Nasirabad Cantonment, *see* the Ajmere Local Rules and Orders.

21. The rules to be made for any local area under section nineteen or twenty may, among other matters, provide for— What rules under sections 19 and 20 may provide for.

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

(*k*) the fee to be paid for vaccination with animal-lymph under section fifteen;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say) :—

(*a*) violates the provisions of section six,

(*b*) neglects without just excuse to obey an order made under section eighteen,

(*c*) breaks any of the rules made under section nineteen or twenty, or

(*d*) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) :—

in the case of the offence mentioned in caluse (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees ; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund.

THE INDIAN EASEMENTS ACT, 1882.

[ACT V OF 1882.]

CONTENTS.

PRELIMINARY.

PREAMBLE.

SECTIONS.

1. Short title.
 Local extent.
 Commencement.
2. Savings.
3. Construction of certain references to Act XV of 1877 and Act IX of 1871.

CHAPTER I.

OF EASEMENTS GENERALLY.

SECTIONS.

4. "Easement" defined.
Dominant and servient heritages and owners.
5. Continuous and discontinuous, apparent and non-apparent, easements.
6. Easement for limited time or on condition.
7. Easements restrictive of certain rights.
(*a*) Exclusive right to enjoy.
(*b*) Rights to advantages arising from situation

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. Who may impose easements.
9. Servient owners.
10. Lessor and mortgagor.
11. Lessee.
12. Who may acquire easements.
13. Easements of necessity and *quasi*-easements.
14. Direction of way of necessity.
15. Acquisition by prescription.
16. Exclusion in favour of reversioner of servient heritage
17. Rights which cannot be acquired by prescription.
18. Customary easements.
19. Transfer of dominant heritage passes easement.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. Rules controlled by contract or title.
Incidents of customary easements.
21. Bar to use unconnected with enjoyment.
22. Exercise of easement.
Confinement of exercise of easement.
23. Right to alter mode of enjoyment.
24. Right to do acts to secure enjoyment.
Accessory rights.

SECTION.
25. Liability for expenses necessary for preservation of easement.
26. Liability for damage from want of repair.
27. Servient owner not bound to do anything.
28. Extent of easements.
Easement of necessity.
Other easements—
(*a*) right of way ;
(*b*) right to light or air acquired by grant ;
(*c*) prescriptive right to light or air ;
(*d*) prescriptive right to pollute air and water ;
(*e*) other prescriptive rights.
29. Increase of easement.
30. Partition of dominant heritage.
31. Obstruction in case of excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. Right to enjoyment without disturbance.
33. Suit for disturbance of easement.
34. When cause of action arises for removal of support.
35. Injunction to restrain disturbance.
36. Abatement of obstruction of easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. Extinction by dissolution of right of servient owner.
38. Extinction by release.
39. Extinction by revocation.
40. Extinction on expiration of limited period or happening of dissolving condition.
41. Extinction on termination of necessity.
42. Extinction of useless easement.
43. Extinction by permanent change in dominant heritage.
44. Extinction on permanent alteration of servient heritage by superior force.
45. Extinction by destruction of either heritage.
46. Extinction by unity of ownership.
47. Extinction by non-enjoyment.

SECTIONS.

48. Extinction of accessory rights.
49. Suspension of easement.
50. Servient owner not entitled to require continuance Compensation for damage caused by extinguishment
51. Revival of easements.

CHAPTER VI.

LICENSES.

52. "License" defined.
53. Who may grant license.
54. Grant may be express or implied.
55. Accessory licenses annexed by law.
56. License when transferable.
57. Grantor's duty to disclose defects.
58. Grantor's duty not to render property unsafe.
59. Grantor's transferee not bound by license.
60. License when revocable.
61. Revocation express or implied.
62. License when deemed revoked.
63. Licensee's rights on revocation.
64. Licensee's rights on eviction.

ACT No. V OF 1882.[1]

[THE INDIAN EASEMENTS ACT, 1882.]

[17th February, 1882.]

An Act to define and amend the law relating to Easements and Licenses.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:— Preamble.

PRELIMINARY.

1. This Act may be called "The Indian Easements Act, 1882": Short title.

[1] ... Gazette of India, 1880, Part V, p. 494; for ... V, p. 1021; and for Proceedings and Debates ... Supplement, pp. 687, 766; and *ibid*, 1882, Supplement, p. 172.

Local extent.

[1] It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;

Commencement.

and it shall come into force on the first day of July, 1882.

Savings.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from—

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

(*b*) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property; or

(*c*) any right acquired, or arising out of a relation created, before this Act comes into force.

Construction of certain references to Act XV of 1877 and Act IX of 1871.

[2] **3.** All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877,[3] or to sections 27 and 28 of Act No. IX of 1871,[4] XV of 18 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.

CHAPTER I.

OF EASEMENTS GENERALLY.

"Easement" defined.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant and servient heritages and owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

[1] The Act was extended to Ajmer-Merwara by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix *infra*.

[2] This section was substituted for the original section 3 by Act X of 1914, Sch. I.

[3] Act XV of 1877 was repealed and re-enacted by Act IX of 1908, General Acts, Vol. VI.

[4] Act IX of 1871 was repealed by Act XV of 1877.

Illustrations.

(*a*) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(*b*) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(*d*) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(*e*) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

Continuous and discontinuous, apparent and non-apparent, easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no sign.

Illustrations.

(*a*) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(*b*) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(*c*) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw of water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights.

7. Easements are restrictions of one or other of the following rights (namely) :—

Exclusive right to enjoy.

(*a*) The exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

Rights to advantages arising from situation.

(*b*) The right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Illustrations of the Rights referred to above.

(*a*) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(*b*) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(*c*) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(*d*) The right of every owner of land to so much light and air as pass vertically thereto.

(*e*) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure ; and the "subjacent and adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(*g*) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature ; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(*i*) The right of every owner of upper land that water naturally rising in, or falling on, such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep ; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

The Imposition, Acquisition and Transfer of Easements.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed. Who may impose easements.

Illustrations.

(*a*) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(*d*) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility. Servient owners.

Illustrations.

(*a*) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(*b*) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage. Lessor and mortgagor.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expi- Lessee.

ration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or, on his behalf, by any person in possession of the same.

One of two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and quasi-easements.

13. Where one person transfers or bequeaths immoveable property to another,—

(*a*) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor, or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or—

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(*b*) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(*c*) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(*d*) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(*e*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(*g*) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(*h*) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary, for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(*i*) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(*j*) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(*k*) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(*l*) Under the [1] Land Acquisition Act, 1870, a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(*m*) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

(*n*) A lets a house and grounds to B for a *particular* business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction of way of necessity.

14. When [a right][1] to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition by prescription.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section, unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

[1] The words "a right" were substituted for the word "right" by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words "twenty years," the words "sixty years" were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(*b*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof, and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(*c*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired:—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made liability would be imposed;

(*b*) a right to the free passage of light or air to an open space of ground;

(*c*) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise.

(*d*) a right to underground water not passing in a defined channel.

Customary easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(*a*) By the custom of a certain village every cultivator of village land is entitled, as such, to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage passes easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

Rules controlled by contract or title

20. The rules contained in this Chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

Incidents of customary easements.

And when any incident of any customary easement is inconsistent with such rules, nothing in this Chapter shall affect such incident.

Bar to use unconnected with enjoyment.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(*a*) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(*b*) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined. Exercise of easement. Confinement of exercise of easement.

Illustrations.

(*a*) A has a right of way over B's field. A must enter the way at either end, and not at any intermediate point.

(*b*) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage. Right to alter mode of enjoyment.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(*c*) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(*d*) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage. Right to do acts to secure enjoyment.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights. Accessory rights.

Illustrations.

(*a*) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(*b*) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(*c*) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(*d*) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(*e*) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(*f*) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(*g*) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for expenses necessary for preservation of easement.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for damage from want of repair.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.

Servient owner not bound to do anything.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement; but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Illustrations.

(*a*) A, as owner of a house, has a right to lead water and send sewage through B's land; B is not bound as servient owner to clear the watercourse or scour the sewer.

(*b*) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(*e*) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

Extent of easements.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:—

Easement of necessity.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. Other easements.

In the absence of evidence as to such intention and purpose—

(*a*) a right of way of any one kind does not include a right of way of any other kind; Right of way.

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made: Right to light or air acquired by grant.

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used: Prescriptive right to light or air.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and Prescriptive right to pollute air and water.

(*e*) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right. Other prescriptive rights.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement. Increase of easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(*a*) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(*b*) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(*c*) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

30. Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden of the servient heritage: provided that such an- Partition of dominant heritage.

nexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(*a*) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(*b*) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(*c*) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have its windows unobstructed.

Obstruction in case of excessive user.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Illustration.

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.

The Disturbance of Easements.

Right to enjoyment without disturbance.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

Suit for disturbance of easement.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section, unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(*a*) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(*b*) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal of support.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation, unless and until [1] substantial damage is actually sustained.

Injunction to restrain disturbance.

35. Subject to the provisions of the [2] Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(*a*) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this Chapter:

(*b*) if the disturbance is only threatened or intended,—when the act threatened, or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

The Extinction, Suspension and Revival of Easements.

Extinction by dissolution of right of servient owner.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

[1] As to meaning of "substantial damage," *see* s. 33, Explanation I, *supra*.

[2] General Acts, Vol. II. The Act was extended to Ajmere-Merwara by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix, *infra*.

Illustrations.

(*a*) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(*b*) A, in 1860, let Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(*c*) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(*d*) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

Extinction by release.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) A, B and C are co-owners of a house, to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(*b*) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(*c*) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(*d*) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

Extinction by revocation.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on expiration of limited period or happening of dissolving condition.

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expired or the condition is fulfilled.

Extinction on termination of necessity.

41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction of useless easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction on permanent change in dominant heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(*a*) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section 14 apply to such way.

Illustrations.

(*a*) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(*b*) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

Extinction by destruction of either heritage.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

Extinction by unity of ownership.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(*a*) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustarted in section 41.

(*c*) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(*f*) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(*g*) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction by non-enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement from the day on which it was last enjoyed by any person as dominant owner.

Provided that if, in the case a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877,[1] a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration. III of 1877.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a

[1] Repealed and re-enacted by Act XVI of 1908, General Acts, Vol. VI.

right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

(*b*) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or

(*c*) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Compensation for damage caused by extinguishment.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flood-

ing. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

Revival of easements.

51. An easement extinguished under section 45 revives—

(*a*) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion;

(*b*) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and

(*c*) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENSES.

"License" defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may be express or implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory licenses: annexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B B is entitled to go on the land and take away the trees.

License when transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(*a*) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(*b*) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's duty to disclose defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's duty not to render property unsafe.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's transferee not bound by license.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

License when revocable.

60. A license may be revoked by the grantor, unless—

(*a*) it is coupled with a transfer of property and such transfer is in force:

(*b*) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a license may be express or implied.

Illustrations.

(*a*) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license locks a gate across the path. The license is revoked.

(*b*) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed revoked.

62. A license is deemed to be revoked—

(*a*) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license:

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative:

(*c*) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the periods expires, or the condition is fulfilled:

(*d*) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right:

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the license:

(*f*) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable:

(*g*) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist:

(*h*) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:

(*i*) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

Licensee's rights on revocation.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. III OF 1886.[1]

[THE NORTHERN INDIA FERRIES ACT AMENDMENT ACT, 1886.]

[*29th January, 1886.*]

An Act to amend the Northern India Ferries Act, 1878.

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878; XVII of 1878.
It is hereby enacted as follows:—

Substitution of new section for section 8, and amendment of sections 12 and 15.

1. (*1*) For section 8 the following shall be substituted, namely:—

[*Vide supra*, p. 53.]

(*2*) For section 12, clause (*b*), the following shall be substituted, namely:—

[*Vide supra*, p. 54.]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1885, Part V, p. 227, and for Proceedings in Council, *see ibid*, Supplement, p. 1257, and *ibid*, 1886, p. 224.

Short title, the Northern India Ferries Act Amendment Act, 1886, *see* the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

(3) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted.

Amendment of section 13, and substitution of new section for section 26.

2. (1) For the first paragraph of section 13 the following shall be substituted, namely :—

[*Vide supra*, p. 54.]

(2) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted.

(3) For section 26 the following shall be substituted, namely :—

[*Vide supra*, p. 57.]

ACT No. XVII OF 1887.

[THE PUNJAB LAND REVENUE ACT, 1887.]

(*Sections 33 to 40, 44 to 46 and 98*).[1]

Annual record.

(A) 33. (1) When the settlement record has been made over to the Collector under section 69 of the Ajmere Land and Revenue Regulation, 1877, he shall cause to be prepared by the patwári of each estate yearly, or at such other intervals as the Chief Commissioner may prescribe, an edition of the settlement record amended in accordance with the provisions of this Schedule.[1]

(2) This edition of the settlement record shall be called the annual record for the estate, and shall comprise the third, fourth, fifth and sixth documents mentioned in section 65 of the [2] Ajmere Land and Revenue Regulation, 1877, and such other documents, if any, as the Chief Commissioner may, with the previous sanction of the Governor General in Council, prescribe.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the Chief Commissioner may prescribe.

Making of that part of the annual record which relates to owners, assignees of revenue and occupancy tenants.

(B) 34. (1) Any person acquiring by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as an owner, assignee of land-revenue or tenant with a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

[1] These sections were placed in a Schedule and lettered A to M, and with the modifications appearing therein were extended to Ajmer-Merwara by a notification under sections 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix, *infra*. They are to be read as part of the Ajmere Land and Revenue Regulation, 1877 (II of 1877), *infra*, and expressions used in them are to have the same meaning as in that Regulation. For the full text of Act XVII of 1887, *see* the Punjab and N. W. F. Code.

[2] *Infra*.

(3) The patwári shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

(C) 35. The acquisition of any interest in land other than a right referred to in sub-section (1) of Section B of this [1] Schedule shall—

(1) if undisputed, be recorded by the patwári in such manner as the Chief Commissioner may by rules in this behalf prescribe; and,

(2) if disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of section B of this Schedule.[1]

Determination of disputes as to entries in settlement records, annual records and registers of mutations.

(D) 36. (1) If during the preparation of a settlement record or an annual record or in the course of any inquiry under Part III (B) of the [2]Ajmere Land and Revenue Regulation, 1877, or under section B or C of this Schedule [1] a dispute arises as to any matter of which any entry is to be made in such record or in a register of mutations, a Revenue-officer may of his own motion or on the application of any party interested, but subject to the provisions of section F of this Schedule [1] and after such inquiry as he may think fit, determine the entry to be made as to that matter. Reg. II of 1877.

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall, by order, direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

Mode of contesting orders as to entries other than entries referred to in regulation II, 1877, s. 67.

Any person who considers himself aggrieved by any entry in an annual record or register of mutations, or by any direction as to possession made under sub-section (2) of section D of this Schedule,[1] may appeal to the authori-

[1] *See* the first footnote to this Act, *supra*.
[2] *Infra*.

ties to whom an appeal lies under the [1]Ajmere Land and Revenue Regulation, 1877, or when the entry is one in the third or fourth document mentioned in section 65 of that Regulation, or in the case of such a direction as aforesaid, may, either instead of so appealing, or if dissatisfied with the order passed on his appeal by any such authority, bring a suit in the Civil Court against any other persons interested in such entry or direction to have such entry amended or such direction reversed or varied.

Restrictions on variation of entries in records.

(E) 37. Entries in settlement records or in annual records except entries made in annual records by patwáris under clause (*l*) of section C of this Schedule[2] with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order, binding on those parties;

(*c*) making new maps where it is necessary to make them.

Mutation fees.

(F) 38. (*1*) The Chief Commissioner may fix a scale of fees for all or any classes of entries in a settlement record, annual record or register of mutations and for copies of any such entries.

(*2*) A fee in respect of any entry shall be payable by the person in whose favour the entry is made.

Fine for neglect to report acquisition of right.

(G) 39. Any person neglecting to make the report required by section B of this Schedule[2] within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under section G of this Schedule[2] if the acquisition of the right had been reported immediately after its accrual.

Recovery of fees and fines.

(I) 98. Any fee payable under section G, or fine imposed under section H, of this Schedule[2] shall be recoverable as if it were an arrear of land-revenue and as if the person from whom it is due were a defaulter in respect of such an arrear.

Obligation to furnish information necessary for the preparation of records.

(J) 40. Any person whose rights, interests or liabilities are required to be entered in a settlement record or annual record shall be bound to furnish on the requisition of any Revenue-officer, supervisor, kanungo or patwári engaged in compiling the record, all information necessary for the correct compilation thereof.

Presumption in favour of entries in settlement records and annual records.

(K) 44. Any entry made in a settlement record or in an annual record in accordance with the law for the time being in force and the rules thereunder

[1] *Infra.*

[2] These sections were extended to Ajmer-Merwara in a Schedule attached to the notification by which the extension was made; *see* the first footnote to this Act, *supra.*

shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

(L) 45. Any person who considers himself aggrieved as to any right of which he is in possession, by an entry in a settlement record or in an annual record, may institute a suit for a declaration of his right.

Power to make rules respecting records and other matters connected therewith.

(M) 46. The Chief Commissioner may, subject to the control of the Governor General in Council, make rules—

(*a*) prescribing the language in which settlement records, annual records and registers of mutations and other prescribed registers are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inquiries by Revenue-officers under Part III (B) of the [1]Ajmere Land and Revenue Regulation, 1877, or under section B or C of this Schedule;[2] and, Reg. II of 1877.

(*e*) generally for the guidance of Revenue-officers, supervisors, kanungos and patwáris in matters pertaining to records and registers mentioned or referred to in this Schedule.[2]

[1] *Infra.*

[2] *See* the first footnote to this Act, *supra.*

PART III.

REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3)[1] IN FORCE IN AJMER-MERWÁRA.

THE AJMER TALUQDARS' RELIEF REGULATION, 1872.

[REG. IV OF 1872.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
2. Application for benefit of Regulation.
3. Contents of application.
4. Procedure on receipt of application.
5. Consequences of notice.
6. Bar of jurisdiction of certain Courts in respect of property under management.
7. Service of notice on claimants.
8. Publication of notice.
 Claimant failing to appear within time appointed.
 Provision for admission of claim within further period of nine months.
9. Languages in which notice to be published.
10. Claim to contain full particulars; documents to be filed.
 Entries in books.
11. Procedure in respect of debt admitted.
12. Procedure in respect of disputed debt, or where collusion, etc., suspected.
13. Investigation of claim.
 Proviso.

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enacts section 1 of the former.

SECTIONS.

14. Appeal against order refusing to enter debt.
15. Schedule of debts and liabilities and scheme for settlement.
16. Procedure on sanction of scheme.
17. What scheme to provide for.
18. Power in respect of property in possession of mortgagee.
19. Power to raise money for settlement of debts.
 Proviso.
20. Appointment of taluqdar, etc., to be manager of his property.
21. Continuance of taluqdar as manager contingent on his observance of conditions imposed.
22. Non-observance of conditions.
23. Procedure on further default.
24. Taluqdar, etc., superseded in management incompetent to grant receipts.
25. Powers of manager.
26. Disabilities of taluqdar, etc., during period of management.
27. Accounts to be kept.
28. Cancellation of documents in proof of claim.
29. Power to enforce attendance of witnesses.
30. Power to administer oath or affirmation.
31. Investigation to be judicial proceeding, and statement to be evidence.
32. Power to make rules.
33. Manager to be public servant.
34. Bar of suits.

THE SCHEDULE.

REGULATION No. IV OF 1872.

[THE AJMER TALUQDARS' RELIEF REGULATION, 1872.]

A Regulation for the relief of the embarrassed Taluqdars, Thakúrs and Jagirdars of Ajmere.

(*Published in the Gazette of India*, 1872, *Part I*, *p.* 894, *and in the Rajputana Official Gazette of 7th October*, 1872, *p.* 1.)

Preamble. WHEREAS most of the Taluqdars, Thakúrs and Jagirdars of the districts of Ajmere are deeply in debt and their immoveable property is subject to mortgages, charges, liens and other incumbrances;

and whereas it is expedient to provide for their relief in manner hereinafter appearing;

and whereas a draft of this Regulation has been proposed by the Chief Commissioner of Ajmere to the Governor General in Council and such draft

has been taken into consideration and approved of by the Governor General in Council, and assented to by the Governor General under section 1 of the [1]Statute 33 of Victoria, cap. 3;

It is hereby enacted as follows:—

Interpretation-clause.

1. In this Regulation "Chief Commissioner" means the Chief Commissioner of Ajmere:

"Commissioner" means the Commissioner of Ajmere: and

"Taluqdar, Thakúr or Jagirdar" means a person whose name is entered in the Schedule hereto annexed.

Application for benefit of Regulation.

2. Whenever, within twelve months after this Regulation has been proclaimed in the District of Ajmere, any Taluqdar, Thakúr or Jagirdar,

or (when such Taluqdar, Thakúr or Jagirdar is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

addresses the Commissioner in writing, stating that he is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due or liabilities incurred to Government, and requesting that the provisions of this Regulation shall be applied to his case, he shall be required to present an application in writing to the Commissioner.

Contents of application.

3. The application shall contain the following particulars, and the statements therein contained shall be verified by the applicant or some other competent person in manner required by law for the verification of plaints:—

(*a*) the amount of the applicant's debts and liabilities, with all mortgages, charges, liens and other encumbrances affecting his property, expressed in Government rupees:

(*b*) the estimated amount of his annual income expressed in Government rupees:

(*c*) the amount of Government revenue chargeable on his property, including the amount (if any) still remaining due on account of any advances made to him by Government:

(*d*) the particulars of his debts and liabilities with the interest (if any) due to date:

(*e*) a declaration that the list of his debts includes all his pecuniary liabilities, personal or otherwise, of which he is aware:

(*f*) a declaration that he has been made acquainted with the provisions of this Regulation, and is anxious to have his property managed under it, and agrees to abide by the provisions contained herein and in the rules made hereunder.

Procedure on receipt of application.

4. On receiving any such application the Commissioner may, by order published in the local Gazette, declare the immoveable property of the Taluqdar, Thakúr or Jagirdar to be under the management of his Court.

[1] Printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. The Statute has been repealed and re-enacted by the Government of India Act, 1915, *see* footnote to the heading of Part III of this Code, on p. 99, *supra*.

Consequences of notice.

5. On such publication all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India shall be barred ; and all processes, executions and attachments for, or in respect of, such debts or liabilities shall become null and void.

Bar of jurisdiction of certain Courts in respect of property under management.

6. So long as such management continues, all Civil Courts, except the Court of the Commissioner, shall be precluded from entertaining any application, petition or suit respecting such property :

Provided that nothing herein contained shall prevent the Commissioner referring any such case for investigation and decision by any Court subordinate to him :

And, when such application, petition or suit has been referred to such Court, it shall be guided by the rules for the time being in force relating to Civil Procedure,[1] except that no orders as to the mode of execution of any decree passed in the suit shall be made by such Court :

And, when such Court has passed its decision (subject to the ordinary right of appeal in civil cases), such Court or Appellate Court shall certify its final decision to the Commissioner, who shall proceed to pass such order for its execution as shall be just and expedient with reference to other claims admitted against the property.

Service of notice on claimants.

7. When the property has been declared under rule 4 to be under the management of the Court, notice shall be served on every creditor mentioned in the application to be present in the Commissioner's Court, on a convenient date to be fixed by the Commissioner, and to produce proof of the amount due to such creditor.

Publication of notice.

8. At the same time a notice shall be published in the local Gazette, calling on all persons having claims on the property, or on the Taluqdar, Thakúr or Jagirdar personally to appear before the Commissioner within three months from the date of the publication and substantiate their claims.

Claimant failing to appear within time appointed.

If any such claimant fail so to appear within that period, his claim shall be barred :

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Commissioner that the claimant was unable so to appear, the Commissioner may admit such claim within the further period of nine months from the expiration of the said period of three months.

Languages in which notice to be published.

9. All notices under this Regulation shall be published in English, Urdu and Hindi in the local Gazette, and in such other manner as the Commissioner may direct.

Claim to contain full particulars ; documents to be filed.

10. Every claimant shall with his claim present full particulars thereof.

[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), in General Acts, Vol. VI. The Code has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to Ajmer-Merwara, *see* Appendix, *infra*.

Every document on which he relies in support of his claim shall also be filed in the Commissioner's Court.

If the document be an entry in any book, the claimant shall produce the book in Court, together with a copy of the entry on which he relies; the book shall be marked by the Commissioner for the purpose of identification; and after the copy has been examined and compared with the original, the book itself shall be returned. Entries in books.

11. If the debt be acknowledged by the debtor, and there be no reason to believe that any collusion exists between the creditor and the debtor, then the amount of such debt shall be entered in the schedule of debts admitted against the property. Procedure in respect of debt admitted.

12. If the debt be denied, or the amount be disputed, or collusion, fraud or extortion be suspected, the Commissioner may refuse so to enter the whole debt or such portion thereof as he thinks fit. Procedure in respect of disputed debt or where collusion, etc., suspected.

13. If the Commissioner sees fit, he may refer the suit for the whole debt or any portion thereof, to any Court subordinate to him for investigation and decision: Investigation of claim.

Provided that the creditor shall file in the Commissioner's Court a stamp paper of the value prescribed by the Court-fees Act, 1870,[1] for the plaint in a suit for such debt or portion. Proviso.

VII of 1870.

14. If the Commissioner does not see fit to refer the case to a subordinate Court, the creditor may appeal against the Commissioner's order refusing to enter his debt, or any portion thereof, to the Chief Commissioner, whose decision thereon shall be final. Appeal against order refusing to enter debt.

15. The Commissioner shall prepare a schedule of such debts and liabilities and a scheme for the settlement thereof, and shall submit such scheme for the sanction of the Chief Commissioner. Schedule of debts and liabilities and scheme for settlement.

16. When the Chief Commissioner has sanctioned the scheme so submitted it shall be announced to the creditor and to the Taluqdar, Thakúr or Jagirdar concerned, and shall then be carried into effect. Procedure on sanction of scheme.

17. Every scheme so sanctioned shall provide— What scheme to provide for.

(*a*) for the due maintenance of the Taluqdar, Thakúr or Jagirdar, and his family, and

(*b*) for the payment of the Government dues in respect of the property and for any expenditure that may be deemed necessary for its repairs and improvement.

and shall declare—

(*c*) whether any creditors, and, if any, what creditors, have a preferential right on the property, and, if so, what is the nature of such preferential right and how it is to be exercised:

[1] General Acts, Vol. II.

(*d*) when and how the remaining creditors shall be paid : and

(*e*) what rate of interest, if any, shall be paid on the debts mentioned in the schedule until they are liquidated.

Power in respect of property in possession of mortgagee.

18. If the property or any part thereof be in the possession of a mortgagee, the Commissioner shall have power to cause the same to be delivered to such person as the Commissioner thinks fit, as if a decree therefor had been made in his favour, but without prejudice to the mortgagee preferring his claim under the provisions herein contained.

Power to raise money for settlement of debts.

19. The Commissioner shall have power to raise any money which may be required for the settlement of the debts or liabilities to which the Taluqdar, Thakúr or Jagirdar is subject, or with which his immoveable property or any part thereof is charged, either

by mortgage of the whole of the interest of the Taluqdar, Thakúr or Jagirdar in such property or any part thereof, or

by letting by way of mortgage the same property or any part thereof for a term not exceeding twenty years from the date of the letting :

Proviso.

Provided that, in the former case, the previous consent of the Chief Commissioner shall have been obtained, and that in the latter case the previous consent of the Taluqdar, Thakúr or Jagirdar shall have been obtained.

Appointment of Taluqdar, etc., to be manager of his property.

20. It being desirable to retain the authority and position of the Taluqdar, Thakúr or Jagirdar, while arrangements are in force for relieving his property of encumbrances, the Commissioner may, if he thinks fit, appoint the Taluqdar, Thakúr or Jagirdar to be manager of his property, subject to the conditions and stipulations contained in the scheme submitted to, and sanctioned by, the Chief Commissioner.

Continuance of Taluqdar as manager, contingent on his observance of conditions imposed.

21. So long as such conditions and stipulations are complied with, the Taluqdar, Thakúr or Jagirdar shall be left in undisturbed possession of his property.

Non-observance of conditions.

22. If any such conditions or stipulations be not complied with by the Taluqdar, Thakúr or Jagirdar, the Commissioner shall, in the first instance, warn him that the management of the property will be taken out of his hands if he continue to fail in such compliance.

Procedure on further default.

23. If after this further default be made, the Commissioner may, with the previous sanction of the Chief Commissioner, appoint a manager of the property other than the Taluqdar, Thakúr or Jagirdar.

Taluqdar, etc., superseded in management incompetent to grant receipts.

24. From the date of such appointment the Taluqdar, Thakúr or Jagirdar shall be incompetent to grant valid receipts for the rents and profits of any kind arising or accruing from his property.

Powers of manager.

25. From such date the manager shall have, for the purpose of realizing and recovering the rents and profits of the property, and for general man-

agement, the same powers as the Taluqdar, Thakúr and Jagirdar had for such purpose previously to his removal from the management of his property.

Disabilities of Taluqdar, etc., during period of management.

26. During the management of his property by the Court, no Taluqdar, Thakúr or Jagirdar shall have power to borrow money, or to alienate his property, or any part thereof; nor shall he be bound by any contract made by him during such management, unless it is in writing, and has been entered into with the consent of the Commissioner, and bears the Commissioner's official signature and seal.

Accounts to be kept.

27. An account in English and Hindi of all claims admitted and payments made in each case under this Regulation shall be kept in the Commissioner's Court; and the Taluqdar, Thakúr or Jagirdar, and also all his creditors and their respective representatives in interest, may, at all convenient times, inspect such account.

Cancellation of documents in proof of his claim.

28. Every document filed under this Regulation by a creditor in proof of his claim shall, after the claim has been admitted and entered in the schedule, be defaced or cancelled by writing across it the fact under the official signature and seal of the Commissioner.

Power to enforce attendance of witnesses.

29. For the purposes of this Regulation, the Commissioner may enforce the attendance of witnesses, and compel them to give evidence by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.[1]

Power to administer oath or affirmation.

30. The Commissioner may administer an oath or affirmation in such form as he thinks fit to any person examined before him touching any of the matters to be enquired into under this Regulation.

Investigation to be judicial proceeding.

31. Every investigation conducted by the Commissioner with reference to any claim preferred before him under this Regulation, or to any matter connected with any such claim, shall be deemed a judicial proceeding within the meaning of the Indian Penal Code:[2]

XLV of 1860.

And every statement made by any person examined by or before the Commissioner with reference to such investigation, whether upon oath or otherwise, shall be deemed evidence within the meaning of the same Code.

and statement to be evidence.

Power to make rules.

32. The Chief Commissioner may from time to time make additional rules consistent with this Regulation to provide for all matters connected with its enforcement.

Such rules, when approved by the Governor General in Council and published in the local Gazette, shall have the force of law.

Manager to be public servant.

33. Every manager appointed under this Regulation shall be deemed a public servant within the meaning of the Indian Penal Code.[2]

XLV of 1860.

Bar of suits.

34. No suit or other proceeding shall be maintained against any person in respect of anything done or purporting to be done by him in good faith pursuant to this Regulation.

[1] Now the Code of Civil Procedure, 1908 (Act V of 1908), *see* footnote to *s.* 6, *supra*.

[2] General Acts, Vol I.

THE SCHEDULE.

(*See section 1.*)

LIST OF TALUQDARS, THAKÚRS AND JAGIRDARS IN THE AJMERE DISTRICT.

No.	Name of individual.	Caste.	Name of village or villages in Taluqa.	Remarks.
		TALUQDARS.		
1				
2	Raja Mungul Singh .	Rajput .	Taluqdar, Bhinai.	
3	Chundur Singh . .	Ditto .	Ditto, Surana .	Sub-Taluqdar or Bhinoi.
4	Chimun Singh . .	Ditto .	Ditto, Sholean.	
5	Chuttur Khooj . .	Charun .	Ditto, Kotree.	
	Runjeet Singh . .	Rajput .	Ditto, Bandhunwar-	
6			rah.	
7	Chundun Singh .	Ditto .	Ditto, Jaolah.	
8	Bheem Singh . .	Ditto .	Ditto, Jotayan.	
9	Bhopal Singh . .	Ditto .	Ditto, Kullyanpoora.	
10	Kurrun Singh . .	Ditto .	Ditto, Padlia.	
	Hunwunt Singh .	Ditto .	Ditto, Ameergurh	Sub-Taluqdar or Band-
11				hunwarrah.
12	Hurree Singh . .	Ditto .	Ditto, Dewulia.	
	Debee Singh . .	Ditto .	Ditto, Goodha Kul-	
13			lan.	
14	Chutter Singh . .	Ditto .	Ditto, Nandsee.	
15	Purtab Singh . .	Ditto .	Ditto, Keyrote.	
16	Mungul Singh . .	Ditto .	Ditto, Koorthul.	
	Sheo Singh . .	Ditto .	Ditto, Kanai Kul-	
17			lan.	
	Debee Singh . .	Ditto .	Ditto, Judana Jeyt-	
18			poora.	
19	Sawunt Singh . .	Ditto .	Ditto, Kabanea.	
20	Moadh Singh . .	Ditto .	Ditto, Shokla	
21	Pem Singh . .	Ditto .	Ditto, Urwur.	
22	Bulwunt Singh . .	Ditto .	Ditto, Shoklee.	
23	Zalim Singh . .	Ditto .	Ditto, Roognathgurh.	
24	Bijay Singh . .	Ditto .	Ditto, Reechmaleean.	
25	Moarh Singh . .	Ditto .	Ditto, Santola.	
25A	Kurrun Singh . .	Ditto .	Ditto, Burlee.	
	Sawunt Singh . .	Ditto .	Ditto, Kunal	
26			Khoord .	Sub-Taluqdar or Burlee.
27	* * * . .	Ditto .	Ditto, Goella.	
28	Sheodan Singh . .	Ditto .	Ditto, Nagelao.	
29	Bhaboot Singh . .	Ditto .	Ditto, Tantotee.	
30	Bhowanee Singh .	Ditto .	Ditto, Baoree.	
31	Madho Singh . .	Ditto .	Ditto, Sawur.	
32	Kishun Singh . .	Ditto .	Ditto, Bassoondnee	Sub-Taluqdar of Sawur.
33	Chuttur Singh . .	Ditto .	Ditto, Chousla .	Ditto ditto.
34	Hurnath Singh . .	Ditto .	Ditto, Tankawas .	Ditto ditto.
	Raghdan and Pir-	Charun .	Ditto, Bhandawoo	Ditto ditto.
35	bhoodan Charuns.		Rajpoorah.	
	Mehtab Singh . .	Rajput .	Ditto, Mehroon	Ditto ditto.
36			Knoord.	
	Dhounkul Singh .	Ditto .	Ditto, Deokharee .	Ditto ditto.

THE SCHEDULE—*continued.*

LIST OF TALUQDARS, THAKÚRS AND JAGIRDARS IN THE AJMERE DISTRICT.

No.	Name of individual.	Caste.	Name of village or villages in Taluqa	REMARKS.
		TALUQDARS —*continued*		
37	Kurun Singh	Rajput	Taluqdar Chand Thullee	Sub-Taluqdar of Sawur.
38	Ram Singh	Ditto	Ditto, Peeplaj	
39	Bahadoor Singh	Ditto	Ditto, Massooda	
40	Sadool Singh	Ditto	Ditto, Suthana	
41	Chuttur Sal	Ditto	Ditto, Lamba	
42	Dheerut Singh	Ditto	Ditto, Nugur.	
43	Oday Singh	Ditto	Ditto, Sukrance.	Sub-Taluqdar of Massooda.
44	Pirthee Singh	Ditto	Ditto, Nundwara	Ditto ditto.
45	Hunoto Singh	Ditto	Ditto, Ukrole	Ditto ditto.
46	Purtab Singh	Ditto	Ditto, Keyloo	Ditto ditto.
47	Zorawur Singh	Ditto	Ditto, Shairghur	Ditto ditto.
48	Bheem Singh	Ditto	Ditto, Futtehgurh	Ditto ditto.
49	Futteh Singh	Ditto	Ditto, Kesurpoora	Ditto ditto.
50	Megh Singh	Ditto	Ditto, Lalawas	Ditto ditto.
51	Dowlut Singh	Jogee	Ditto, Jamola	Ditto ditto.
52	Luchmun Rawul	Rajput	Sheopooree	Ditto ditto.
53	Kullyan Singh	Jogee	Khera	Ditto ditto.
54	Joudhrawul	Rajput	Asun	
55	Kullyan Singh	Rajput	Joonea.	Sub-Taluodar of Joonea.
56	Ameer Singh	Ditto	Taluqdar, Mundah	
57	Buldeo	Charun	Ditto, Lissarea	
58	Deo Singh	Rajput	Ditto, Deolya Khoord.	
59	Man Singh	Ditto	Ditto, Kuronj	
60	Mehtab Singh	Ditto	Ditto, Bogla Kalahera.	
61	Kaloo Singh	Ditto	Ditto, Mehroon	
62	Doorjun Sal	Ditto	Ditto, Kadera	
63	Chuttur Sal	Ditto	Ditto, Tiewarrea.	
64	Modh Singh	Ditto	Ditto, Memode.	
65	Dhounkul Singh	Ditto	Ditto, Sankurya.	
66	Raja Purtab Singh	Ditto	Ditto, Puisangun.	
67	Sheonath Singh	Ditto	Ditto, Para.	
68	Jowahir Singh	Ditto	Ditto, Kodah.	
69	Nathoo Singh	Ditto	Ditto, Meoda Khoord.	
70	Subheh Singh	Ditto	Ditto, Sudara.	
71	Urjun Singh	Ditto	Ditto, Goolgaon.	
72	Mehpall Singh	Ditto	Ditto, Khawas Sirsiree.	
73	Roog Nath Singh	Ditto	Ditto, Pranhera.	
74	Juswunt Singh	Ditto	Ditto, Khurwa.	Sub-Taluqdar of Khurwa.
75	Nathoo Singh	Ditto	Ditto, Nasono	
76	Ram Singh	Ditto	Ditto, Deogaon Bughera.	
77	Esree Singh	Ditto	Ditto, Sularee.	
78	Luchman Singh	Ditto	Ditto, Gobindgurh.	
79	Nahur Singh	Ditto	Ditto, Bagsooree.	
80	Sumruth Singh and Roog Nath Singh.	Ditto	Ditto, Boobanea	
81	Futteh Singh	Ditto	Ditto, Munohurpoor.	

THE SCHEDULE—*concluded.*

LIST OF TALUQDARS, THAKÚRS AND JAGIRDARS IN THE AJMERE DISTRICT.

No.	Name of individual.	Caste.	Name of village or villages in Taluqa.	REMARKS.*
		TALUQDARS—*concluded.*		
82	Phool Singh and Suman Singh.	Rajput .	Taluqdar, Kureil .	Istimrardars.
83	Chuttur Singh . .	Ditto .	Ditto, Richmalean.	
84	Jogee Dass . .	Ditto .	Ditto, Moywarea.	
85	Bishun Singh . .	Ditto .	Ditto, Seethun.	
86	Shumsher Khan .	Cheeta .	Rajosee . . .	Istimrardar.
87	Hemta Khan and Shumsher Khan.	Ditto .	Nowsur . . .	Istimrardars.
88	Roopa, Moyda, Dulla and Roogha.	Ditto .	Ajayur . . .	Ditto.
89	Roopa, Jodha and Akha	Ditto .	Khareikree . .	Ditto.
		JAGIRDARS.		
1	Dewan Gyaluddeen Ali Khan Deewanjee, Sujjada Nusheen.	..	Hokran Kishunpoora.	
2	Meer Imam Ali . .	..	Dilwarra.	
3	Enayat-oollah Shah .	..	Doodiana.	
4	Nizam Ali and Surfraz Ali, sons of Irshad Ali.	..	Jhurwassa.	
5	Meer Hufeez Ali, Mootwullee Durgah, Meer Wazeer Ali	..	Morajhurree and Buneoree,	
6	Mahomed Hossein and Ameer Ali.	..	Ditto ditto.	
7	Yoosoof Ali and Wazeer Ali.	..	Nandla.	
8	Nawab Abdool Kureem Khan.	Pathan .	Deoranthoo, Bohraj, Quazeepoora and Seetowuryan.	
9	Rajah Bulwant Singh, Bukhtawur Singh and Onar Singh.	Rajput .	Gugwana, Oontra and Mugra.	
10	Salug Ram Joshee .	Brahman .	Mungliawass.	
11	Raja Deebee Singh, Rajgurh.	Rajput .	Jagirdar, Kotheeaj.	
12	Purmanund Dhoodhadharee.	Byragee .	Bhugwanpoora and Lalla Khera.	
13	Gokulpooree Gosain .	Gossain .	Chawundee.	
14	Shurf-ood deen Inaet-ool-lah Shah.	Sayad .	Akhree	
15	Ashruf Ali, Surfaraz Ali and Assad Ali.	Ditto .	Ganahera.	
16	Meer Nizam Ali, Wazeer Ali.	Ditto .	Hathee Khera.	

THE AJMERE FOREST REGULATION, 1874.

[REG. VI OF 1874.]

CONTENTS.

PREAMBLE.

SECTIONS.

Preliminary.

1. Short title.
2. Interpretation-clause.

Taking up of Land under this Regulation.

3. Declaration for taking up land.
4. Legal effect of such declaration.
 Rights created in favour of villagers—
 to cut grass,
 to cut wood,
 to use ways.
5. Villagers' rights to be exercised under control of Forest-officer.
6. Payment of nett profits resulting from State-forest-operations.
7. Forfeiture of part of profits for misconduct.
8. No fine to be levied for cattle-trespass on unprotected forest.
9. Power to make rules.

Relinquishment of Land taken up under this Regulation.

10. Declaration for relinquishing land.
11. Restoration of land disforested.

Restriction of the right of felling Trees and making Charcoal.

12. Chief Commissioner may make rules.

Recovery of Fines.

13. Recovery of Fines.

SCHEDULE A.—FORM OF DECLARATION FOR TAKING UP LAND.
SCHEDULE B.—FORM OF DECLARATION FOR RELINQUISHING LAND.

REGULATION No. VI OF 1874.[1]

[THE AJMERE FOREST REGULATION, 1874.]

A Regulation to provide for the establishment of State Forests in Ajmere and Merwara, and to prevent the indiscriminate felling of trees and removal of jungle in Merwara.

(*Published in the Gazette of India, 1874, Part I, p. 618, and in the Rajputana Official Gazette of 2nd January, 1875, p. 2.*)

Preamble.

WHEREAS, by a Resolution passed by the Secretary of State in Council on the sixteenth day of March, 1871, the provisions of the 33rd of Victoria, chapter 3[2] were declared applicable to Ajmere and Merwara:

And whereas the Chief Commissioner of Ajmere has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same:

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India, and will be published in the local Gazette, and will thereupon have the force of law:—

Preliminary.

Short title.

1. This Regulation may be called the Ajmere Forest Regulation, 1874.

Interpretation clause.

2. In this Regulation, unless there be something repugnant in the subject or context,—

the expression "villagers" includes the members of the proprietary body of any village, and any other persons or class of persons who may, by a written order of the Commissioner, subject to the control of the Chief Commissioner, be declared entitled to the status of villagers under this Regulation;

the expression "Forest-officer" means any person or persons whom the Chief Commissioner of Ajmere from time to time appoints[3] to exercise the powers and perform the duties hereby conferred and imposed on a Forest-officer;

and the expression "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

[1] As to the application of Reg. VI of 1874 to estate commons, *see* Chap. II of Ajmer-Merwara Private Forests Regulation, 1892 (I of 1892), *infra*.

[2] The Govt. of India Act, 1870, in collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423, *see* footnote to the heading of Part III of this Code, *supra*.

[3] For notification appointing the Assistant Commissioner of Ajmer-Merwara to be Forest-officer, *see* the Ajmere Local Rules and Orders.

Taking up of Land under this Regulation.

3. Whenever it appears to the Chief Commissioner of Ajmere expedient the area of any village poses of a State-forest, a [1]declaration in the form given in Schedule A hereto annexed, or to the like effect, and describing the land by its boundaries, or otherwise with convenient certainty, shall be published in the local Gazette, and a copy of such declaration in Hindi, together with a written explanation in Hindi of the terms as hereinafter laid down on which the land is taken by the Government, shall be delivered to the lambardars of the village. Declaration for taking up land.

4. Such declaration shall be conclusive evidence as to the nature and condition of the land and as to the expediency of taking it up; Legal effect of such declaration.

and on its publication in the local Gazette the following consequences shall ensue:—

(*a*) the proprietary right to the land shall vest in the Crown, and, in lieu of all rights which any person may now have in or to such land, the rights hereinafter in that behalf mentioned shall be reserved to the villagers;

(*b*) the Forest-officer may enter and take possession;

(*c*) subject to the rules and limitations in the next following section provided, the undermentioned rights over the land may be exercised by the villagers, that is to say— Rights created in favour of villagers—

(i) a right to enter upon the land to cut grass thereon; to cut grass,

(ii) a right to enter upon the land to cut such wood as is reasonably necessary for their household requirements and agricultural implements; to cut wood,

(iii) a right to use all such ways of a defined and permanent character over the land as were in use by them at the time the declaration was published and are still adapted for use. to use ways.

5. The rights vested in the villagers under section 4 shall be exercised subject to the control of the Forest-officer, who may from time to time, among other things, and subject to an appeal to the Commissioner of Ajmere,— Villagers' rights to be exercised under control of Forest-officer.

(*a*) issue written orders, determining the seasons at which grass may be cut and the mode of cutting it, and prohibiting the cutting of it in any part of the land where such cutting would tend to damage the trees there growing;

(*b*) issue written orders determining the season when, and the place where, wood is to be cut;

(*c*) stop any way across the land, and assign another way instead of it, provided that the new way set out by him be a reasonably convenient substitute for the way so stopped.

[1] For a list of these notifications, see the Ajmere Local Rules and Orders.

Payment of nett profits resulting from State-forest-operations.

6. There shall be distributed among and paid to those who, previous to the taking up of the land, were interested therein, the following proportions of the nett profits (if any) from time to time resulting from the State-forest-operations on the land, after deducting all expenses of management, namely, of profits from operations other than the working of mines and quarries—two-thirds; of profits from the working of the mines and quarries—one-half.

The amount of such profits, the times at which they are payable, the persons entitled to participate in them, the shares claimable by such persons and the mode of distribution, shall be determined by the said Commissioner, subject to the control of the said Chief Commissioner, by a declaration in writing, and such declaration shall be final and conclusive as against all persons concerned.

Forfeiture of part of profits for misconduct.

7. If the members of any village-community, or any other persons entitled to a share of profits under such declaration, have interfered with or obstructed the State-forest-operations, or have not rendered such assistance to the Forest-officer as may be lawfully required of them, the said Chief Commissioner may direct that there shall be withheld from them a sum not exceeding one-half of the profits which would otherwise have accrued to them or to the village-community of which they are members, and such sum shall be withheld accordingly, and shall be credited to the Forest Department.

No fine to be levied for cattle-trespass on unprotected forest.

8. When any land has been taken up for a State-forest under this Regulation, no fine shall be levied in respect of any trespass by cattle thereon until the Forest-officer has efficiently protected that portion in which grazing is prohibited, by fencing, or, with the Commissioner's sanction, demarcated it by conspicuous marks which have been duly notified in the vicinity. But this section shall not apply where cattle have been wilfully caused to trespass by the owner or any person in charge of them.

Power to make rules.

9. The Chief Commissioner of Ajmere may, by a notification in the local Gazette, make rules[1] consistent with this Regulation for the management and protection of State-forests created under the provisions herein contained, and may, by a similar notification, from time to time alter, add to or rescind such rules. He may, in making any such rule, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, of a fine not exceeding, for the first offence, rupees fifty, and for the second or any subsequent offence, rupees one hundred.

Relinquishment of Land taken up under this Regulation.

Declaration for relinquishing land.

10. Whenever it appears to the said Chief Commissioner that a tract of land taken up under this Regulation is no longer required for the purposes of

[1] For rules for the management and protection of forests, *see* the Ajmere Local Rules and Orders.

For rules as to grazing and grass-cutting in State-forests, *see* Gazette of India, 1903, Pt. II, p. 313; *ibid*, 1908, Pt. II, p. 532.

a State-forest, a declaration in the form given in Schedule B hereto annexed, or to the like effect, and describing the land by its boundaries, or otherwise with convenient certainty, shall be published in the local Gazette, and a copy of the same in Hindi shall be delivered to the lambardars of each village within the area of which any portion of such land was originally included.

Restoration of land disforested.

11. After publishing such declaration, the Commissioner of Ajmere shall, as soon as conveniently may be, proceed to restore the land so disforested to

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Commissioner seems proper.

For this purpose he shall issue an order in writing specifying the communities or persons to whom each portion of the disforested land is to be restored, and their interests therein, and the nature and incidence of the charges thereon. Such order shall be binding and conclusive on all parties concerned.

Restriction of the Right of felling Trees and making Charcoal.

Chief Commissioner may make rules.

12. The Chief Commissioner of Ajmere may, by a notification in the local Gazette, make rules for the prevention of charcoal-burning and destruction of trees in the vicinity of the State-forests or in other places where these practices may in his opinion be injurious. In issuing such rules due regard will be had to proprietary rights.

Recovery of Fines.

Recovery of fines.

13. The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code,[1] and of sections 386 to 389 of the Code of Criminal Procedure, 1882,[2] shall apply to all fines imposed under this Regulation, or under the rules made in the exercise of the power given by section 9 of the same.

XLV of 1860.
X of 1882.

SCHEDULE A.

(*See section 3.*)

FORM OF DECLARATION FOR TAKING UP LAND.

The waste ($\frac{\text{or}}{\text{and}}$) hilly land below described, being required for the purposes of a State-forest, is hereby, under the orders of the Chief Commissioner, taken up for such purpose, and the present declaration is made and published under the Ajmere Forest Regulation, 1874, section 3.

[1] General Acts, Vol. I.

[2] *See* now s. 386 *et seq.* of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

SCHEDULE B.

(*See section 10.*)

FORM OF DECLARATION FOR RELINQUISHING LAND.

The land below described being no longer required for the purposes of a State-forest, is hereby, under the orders of the Chief Commissioner, relinquished, and the present declaration is made and published under the Ajmere Forest Regulation, 1874, section 10.

THE AJMERE COURTS REGULATION, 1877.

[REG. I OF 1877.]

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
 Local extent.
 Commencement.
2, 3. [*Repealed.*]

CHAPTER II.

OF THE ADMINISTRATION OF CIVIL JUSTICE.

A.—General.

4. Ajmere and Merwara a single district.
 Grades of Courts in such district.
4A. Appointment of an Additional Commissioner.
4B. Appointment of Additional District Judge.
5. Appointment of Subordinate Judges and Munsifs.

B.—Of Original Jurisdiction.

6. Court of Commissioner.
7. Court of Subordinate Judge of first class.
8. Court of Subordinate Judge of second class.

SECTIONS.

9. Court of Munsif.
10. Subordinate Judge of first class may be invested with powers of District Court.
11. Any Subordinate Judge may be invested with powers of Small Cause Court.
12. Act XI of 1865 to apply.
13. Benches of Judges.
Their powers may be confined to specified classes of cases.

C.—Of Appeals and References.

14. Appeals from Courts of original jurisdiction.
15. When Commissioner and Chief Commissioner may receive second appeal.
16. When decision of first Appellate Court to be final.
17. Application to first Appellate Court to refer case.
18. Procedure on such application.
19. Procedure on reference being made.
20. Costs of reference.
21. Any Appellate Court may make reference of its own motion.
22. Period of limitation.
23. Which Court deemed highest Court of appeal.
References under Chapter XLVI of the Code of Civil Procedure or section 11 of the Provincial Small Cause Courts Act, 1887.
23A. Application of sections 14 to 23 to the Additional District Judge.

D.—Miscellaneous.

24. Control over subordinate Courts.
25. Power to distribute judicial business.
26. Power to withdraw suit and try it, or refer it to other Court.
Delegation of similar power to Subordinate Judge.
27. Pleaders and mukhtars.
28. Recognised Agents.
29. Mode of recording evidence.
30. Exemption of certain property from sale in execution of decree.
31. [*Repealed.*]
32. Code of Civil Procedure to apply.
33. [*Repealed.*]

E.—Special Provisions for the Hearing of Suits involving Questions regarding Succession to the Estates of Taluqdars, Thakúrs and Jagirdars.

34. Suits not to be heard in Court of lower grade than that of first class Subordinate Judge.
35. Chief Commissioner not bound to refer points to High Court.

SECTIONS.
36. Commissioner to refer points to Chief Commissioner instead of to High Court.
37. Procedure on reference to Chief Commissioner.

CHAPTER III.

OF THE ADMINISTRATION OF CRIMINAL JUSTICE.

38. Chief Commissioner to discharge functions of High Court.
39. Commissioner to be District Magistrate and Sessions Judge.
40. Additional Sessions Judge.
41. [*Repealed.*]

THE SCHEDULE. [*Repealed.*]

REGULATION I OF 1877.

[THE AJMERE COURTS REGULATION, 1877.]

A Regulation to consolidate and amend the law relating to the administration of Civil and Criminal Justice in Ajmere and Merwara.

(*Received the assent of the Governor General on the 3rd May, 1877, and published in the Gazette of India, 1877, Part I, p. 227, and in the Rajputana Official Gazette, 1877, p. 116.*)

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the administration of civil and criminal justice in Ajmere and Merwara; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Regulation may be called the Ajmere Courts Regulation, 1877.

Local extent. It extends to all the territories now under the administration of the Chief Commissioner of Ajmere, and to which the provisions of the 33 Vict., cap. 3, section 1,[1] have been applied;

[1] The Govt. of India Act, 1870, in collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423, *see* footnote to the heading of Pt. III of this Code, p. 99, *supra*.

And it shall come into operation on such date[1] as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by a notification in the Gazette of India, direct. Commencement.

2. [*Repeal of enactments.*] *Rep. Reg. IX of 1893.*

3. [*Pending Proceedings.*] *Rep. Reg. IX of 1893.*

CHAPTER II.

ADMINISTRATION OF CIVIL JUSTICE.

A.—General.

4. For the purposes of the administration of civil justice the said territories shall form a single district, and Ajmere and Merwara a single district.

there shall be five grades of Civil Courts in such district (namely) :— Grades of Courts in such district.

1st, the Court of the Chief Commissioner ;

2nd, the Court of the Commissioner [and the Court of the Additional District Judge][2] ;

3rd, the Courts of Subordinate Judges of the first class ;

4th, the Courts of Subordinate Judges of the second class ;

5th, the Courts of Munsifs.

[3][4A. The Chief Commissioner, with the Governor General in Council, may, from time to [illegible] Commissioner who shall have all the powers of th[illegible] Regulation.] [illegible]sioner.

[4][4B. The Chief Commissioner may appoint any person to be an Additional District Judge, who shall exercise and discharge such of the powers and duties of the Court of the Commissioner as the Chief Commissioner may direct and shall, as regards the exercise and discharge of these powers and duties, be deemed, for the purposes of this Regulation, to be the Court of the Commissioner.] Appointment of Additional District Judge.

5. The Chief Commissioner, [illegible] may appoint[6] as many persons as he thinks fit either by name or office to be in such district Subordinate Judges of the first or of the second class or Munsifs. Appointment of Subordinate Judges and Munsifs.

B.—Of Original Jurisdiction.

6. The Court of the Commissioner shall be deemed, for the purposes of all enactments for the time being in force, to be the District Court, or principal Civil Court of original jurisdiction, for such district. Court of Commissioner.

[1] The 1st of June, 1877, *see* Gazette of India, 1877, Pt. II, p. 290, and Rajputana Official [illegible]

[illegible] " were omitted by Reg. I of 1910, *infra*.

[6] For notification under s. 5, *see* Ajmere Local Rules and Orders, and Gazette of India, 1892, Pt. II, p. 3.

In original suits cognizable under the Code of Civil Procedure[1] the jurisdiction of the Commissioner shall, as regards the amount or value of the subject-matter, be without limit.

Court of Subordinate Judge of first class.

7. The jurisdiction of a Subordinate Judge of the first class shall extend to all such suits in which the amount or value of the subject-matter does not exceed ten thousand rupees, or, where such Subordinate Judge is invested by the Commissioner with additional powers in this behalf, to all such suits without limit of such amount or value.

Court of Subordinate Judge of second class.

8. The jurisdiction of a Subordinate Judge of the second class shall extend to all such suits in which the amount or value of the subject-matter does not exceed five hundred rupees.

Court of Munsif.

9. The jurisdiction of a Munsif shall extend to all such suits when the amount or value of the subject-matter does not exceed one hundred rupees.

Subordinate Judge of first class may be invested with powers of District Court.

10. In addition to the jurisdiction specified in section 7, a Subordinate Judge of the first class may exercise such powers conferred by any enactment for the time being in force on a principal Civil Court of original jurisdiction as may be delegated to him by the Commissioner.

Any Subordinate Judge may be invested with powers of Small Cause Court.

11. The Chief Commissioner may, [2] * * * * * invest any [3]Subordinate Judge with the powers of a Judge of a Court of Small Causes, and may, [4] * * * * from time to time determine the local limits within which such powers shall be exercised.

A Subordinate Judge invested with the powers of a Judge of a Court of Small Causes under this section may, in addition to such powers, exercise any other civil jurisdiction conferred on him by or under this Regulation, or any other enactment for the time being in force.

Act XI of 1865 to apply.

12. The Court of a Subordinate Judge exercising the powers of a Judge of a Court of Small Causes shall be deemed to be a Court of Small Causes constituted under Act XI of 1865[5] and, except as hereinbefore provided, and as provided in [section 23][6] of this Regulation, shall be subject to all the provisions of that Act in so far as they may be found applicable.

Benches of Judges.

13. The Chief Commissioner may, * * * * *[2] direct that any of the powers hereinbefore conferred on any Court of the two lowest grades shall be exercised by any three persons sitting together as a Bench.

Their powers may be confined to specified classes of cases.

The Chief Commissioner may direct that any powers conferred under this section shall be exercised only in reference to some specified class of cases.

Where three such persons sit together as a Bench, the decision of the majority of such persons shall be deemed the decision of the Bench.

[1] *See* now Act V of 1908 in General Acts, Vol. VI.

[2] The words " with the previous sanction of the Governor General in Council " were omitted by Reg. I of 1910, *infra*.

[3] For notification under s. 11 investing certain Subordinate Judges with the powers of a Small Cause Court, and defining the local limits of their jurisdiction, *see* Ajmere Local Rules and Orders.

[4] The words " with like sanction " were omitted by Reg. I. of 1910, *infra*.

[5] *See* now the Provincial Small Cause Courts Act, 1887 (IX of 1887), General Acts, Vol. IV.

[6] Substituted for the words " sections twenty-three and thirty-three " by the Ajmere Amending Regulation, 1893 (IX of 1893), *infra*.

A Bench vested with the powers of a Court of any grade under this section shall be deemed to be a Court of such grade for all the purposes of this Regulation.

C.—Of Appeals and References.

Appeals from Courts of original jurisdiction.

14. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Regulation extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say :—

(*a*) when such decree or order is passed or made by a Munsif or Subordinate Judge of the second class—to a Subordinate Judge of the first class specially empowered[1] by the Chief Commissioner * * * * *[2] to hear such appeals ;

(*b*) when such decree or order is passed or made by a Subordinate Judge of the first class—to the Commissioner.

(*c*) when such decree or order is passed or made by the Commissioner —to the Chief Commissioner.

When Commissioner and Chief Commissioner may receive second appeal.

15. When the decision of a Subordinate Judge or of the Commissioner passed in appeal reverses or modifies the decision of the Court of original jurisdiction on a point material to the merits of the case, and is not declared by any law for the time being in force to be final, the Commissioner or Chief Commissioner, as the case may be, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

When decision of first Appellate Court to be final.

16. When the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

Application to first Appellate Court to refer case.

17. When the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law, or usage having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, no further appeal shall lie, but the party aggrieved by such decision may apply to such Court of first appeal to draw up a statement of such question and to submit it,

if such Court of first appeal be that of a Subordinate Judge—to the Commissioner ;

if such Court be that of the Commissioner or Chief Commissioner—to the High Court of Judicature for the North-Western Provinces.

[1] For notification under s. 14, empowering the Assistant Commissioner, Merwara, and the Judicial Assistant to hear such appeals, see Ajmere Local Rules and Orders.

[2] The words "with the previous sanction of the Governor General in Council" were repealed by Reg. I of 1910, *infra*.

Every application under this section shall, for the purposes of the Court-fees Act, 1870,[1] be deemed to be memorandum of appeal to the Court of the Commissioner or to the High Court, as the case may be. VII of 1870.

Procedure on such application.

18. If the Court to which such application is made, after perusing such application and hearing the applicant if he claim to be heard, consider that there is a question of the nature specified in section 17, it shall draw up a statement of the same, and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case and its own opinion on such question, to the Commissioner or to the said High Court, as the case may be.

Procedure on reference being made.

19. The Commissioner or the said High Court, as the case may be, shall, with as little delay as possible, proceed to hear the case referred as if it were an appeal instituted in the Court of the said Commissioner or in the said High Court (except that it shall not be necessary for the parties to be present), and shall send a copy of the judgment passed thereon to the Court submitting the point, which shall dispose of the case in conformity therewith.

Costs of reference.

20. The costs, if any, consequent on the reference of the case to the Commissioner or High Court, shall be costs in the appeal out of which the reference arose.

Any Appellate Court may make reference of its own motion.

21. When any Appellate Court in the trial of the civil appeal entertains a doubt in respect of a question of the nature specified in section 17, such Court may refer such question in manner provided by section 18.

References under this section, when made by a Subordinate Judge, shall be made to the Commissioner, and, when made by the Commissioner or Chief Commissioner, to the High Court of Judicature for the North-Western Provinces.

All such references shall be dealt with in manner provided by sections 19 and 20.

Period of limitation.

22. The period of limitation for an appeal under section 14 or section 15 shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say :—

(*a*) when such appeal lies to a Subordinate Judge, thirty days ;

(*b*) when such appeal lies to the Commissioner or Chief Commissioner, sixty days.

The period of limitation for an application under section 17 shall be thirty days, reckoned from the date of the decree or order of the Appellate Court.

In other respects the limitation of such appeals and applications shall be governed by the provisions of the Indian Limitation Act, 1871.[2] IX of 1871.

Which Court deemed highest Court of appeal.

23. The Court of the Chief Commissioner shall be deemed for the purposes of all enactments for the time being in force to be the highest Civil Court of appeal in the said territories :

[1] General Acts, Vol. II.

[2] *See* now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

[1] Provided that references under Chapter XLVI[2] of the Code of Civil Procedure, or under section 11 of the Provincial Small Cause Courts Act, 1887,[3] shall be made, not to the Chief Commissioner, but to the High Court of Judicature for the North-Western Provinces.

of 1882. f 1887.

References under Chapter XLVI of the Code of Civil Procedure or section 11 of the Provincial Small Cause Courts Act, 1887.

[4][**23A.** Where the Additional District Judge has been specially or generally empowered to exercise and discharge any of the powers and duties of the Court of the Commissioner, references to the Commissioner in sections 14 to 23 shall, in respect of such powers and duties, be deemed to refer to the Additional District Judge.]

Application of sections 14 to 23 to the Additional District Judge.

D.—Miscellaneous.

24. The general control over all the Courts of the three lowest grades shall be vested in the Commissioner, subject to the superintendence of the Chief Commissioner.

Control over subordinate Courts.

The general control over the Court of the Commissioner [5][and of the Additional District Judge when exercising or discharging the powers or duties of that Court] shall be vested in the Chief Commissioner.

25. Subject to the control of the Chief Commissioner, the Commissioner may[6] direct the civil judicial business to be distributed, among the Courts of the three lowest grades in such way as he thinks fit: Provided that no Court shall exercise any powers beyond those conferred on it by or under this Regulation or some other enactment for the time being in force.

Power to distribute judicial business.

[7]* * * * * * * *

26. The Chief Commissioner or Commissioner shall have power to withdraw any suit or appeal pending in any Court subject to his control or superintendence, and try such suit or appeal himself, or refer it for trial to any other such Court competent to try the same.

Power to withdraw suit, and try it or refer it to other Court.

The Commissioner may empower any Subordinate Judge of the first class to exercise a like power in respect of suits pending in the Court of any other Subordinate Judge or of any Munsif.

Delegation of similar power to Subordinate Judge.

[1] This proviso was substituted by the Ajmere Amending Regulation, 1903 (IX of 1903), *infra*.
[2] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.
[3] General Acts, Vol. IV.
[4] Section 23A was inserted by Reg. II of 1914, *infra*.
[5] Inserted by *ibid*.
[6] For notification under s. 25 as to distribution of business, *see* Ajmere Local Rules and Orders.
[7] The second paragraph of s. 25 was repealed by Reg. II of 1914, *infra*.

[1][In either of the following cases :—

(*a*) if there is an appeal before the Chief Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(*b*) if there is an application before him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the High Court of Judicature for the North-Western Provinces, and that Court shall dispose of the appeal or application as though it had been preferred or made to itself.]

Pleaders and mukhtars.

27. Notwithstanding anything contained in the [2]Pleaders, Mukhtars and Revenue Agents Act, 1865, no person shall be admitted or enrolled as a pleader or mukhtar under that Act after the passing of this Regulation. XX of 186

Recognised Agents.

28. In addition to the persons mentioned in the section 37 of the Code of Civil Procedure,[3] the following shall be deemed to be "recognised agents" for the purpose of the said Code :—

(*a*) a party's relation, partner, servant or friend especially empowered to act and permitted by the Court to act as such agent ;

(*b*) a person specially empowered to act as such agent by any of the Istimrardars and Jagirdars whose names are included in the schedule attached to the Ajmere Taluqdars' Relief Regulation of 1872 ;[4] IV of 1872

(*c*) a vakil or other person authorised by any Prince or Chief to act for or represent him ;

(*d*) an advocate, vakil or attorney enrolled on the roll of any High Court established by Letters Patent [5][or an advocate enrolled under section 41 of the Legal Practitioners Act, 1879,[2] or a pleader enrolled in the Chief Court of the Punjab,] [provided that][6] the Court before which the case is pending is of opinion, for reasons to be recorded by it, that it is essential for the proper conduct of such case to permit such advocate, vakil, [attorney or pleader][7] to act therein. XVIII of 1879.

Mode of recording evidence.

29. The Chief Commissioner may, * * * * * *[8] direct that in any class of suits between landlord and tenant in agricultural villages the evidence may be taken in the form prescribed by section 189 of the Code of Civil Procedure,[3] for cases in which an appeal does not lie to a higher tribunal.

[1] This paragraph was added by Reg. IX of 1890, s. 1, *infra*.

[2] *See* now the Legal Practitioners Act, 1879 (XVIII of 1879), General Acts, Vol. III.

[3] *See* now Or. III, r. 2 of Sch. I, to the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

[4] *Supra*.

[5] Inserted by Reg. II of 1914, *infra*.

[6] The words " provided that " were substituted for the words " when " by *ibid*.

[7] The words " attorney or pleader " were substituted for the words " or attorney " by *ibid*.

[8] The words " with the previous sanction of the Governor General in Council " were repealed by Reg. I of 1910, *infra*.

30. The following property is exempted from attachment and sale in execution of decrees of the Civil Courts :— Exemption of certain property from sale in execution of decree.

land and wells not being situated within the inhabited limits of a town or village,

dwelling-houses belonging to agriculturists and occupied by their owners, implements and materials used in husbandry and animals kept for agricultural purposes,

implements of trade or of domestic industry, and the necessary wearing-apparel of the debtor and his family.

Where the debtor is an agriculturist, it shall be in the discretion of the Court executing the decree, subject to any restrictions which the Chief Commissioner may from time to time, * * * * * * *[1] impose, to exempt from attachment or sale, besides the property hereinbefore mentioned, any agricultural produce which such Court may be satisfied, on such enquiry as it deems fit to make, is intended by such debtor to be used and is required for the subsistence of such debtor and the members of his family dependent on him, or as seed for the land cultivated by him, or as fodder for the animals kept by him for agricultural purposes.

31. [*Imprisonment in execution of decree.*] *Rep. Act VI of 1888, s. 9.*

32. Except as otherwise provided in this Regulation or in any other enactment for the time being in force, the provisions of the Code of Civil Procedure,[2] so far as the same may be applicable, shall apply to all suits, appeals and other proceedings in the Civil Courts. Code of Civil Procedure to apply.

33. [*Amendment of Act XI of 1865, s. 21.*] *Rep. Act IX of 1887.*

E.—Special Provisions for the Hearing of Suits involving Questions regarding Succession to the Estates of Taluqdars, Thakúrs and Jagirdars.

34. Notwithstanding anything contained in the foregoing sections of this Regulation, no suit in which any question regarding a right to inherit as heir by birth or adoption, or to succeed by any other title to the estates of any of the Taluqdars, Thakúrs or Jagirdars entered in the Schedule annexed to the Ajmere Taluqdars' Relief Regulation, 1873,[3] is in issue shall be heard by any Court of a lower grade than that of a Subordinate Judge of the first class. Suits not to be heard in Court of lower grade than that of first class Subordinate Judge.

35. Notwithstanding anything contained in sections 17 and 18 of this Regulation, the Chief Commissioner shall not on appeal in such suits be bound to make any such reference to the High Court for the North-Western Provinces as is by the said sections prescribed. Chief Commissioner not bound to refer points to High Court.

36. References made by the Commissioner of Ajmere, on appeal in such suits under sections 18 and 21, shall be made, not to the said High Court as provided by those sections, but to the Court of the Chief Commissioner : Commissioner to refer points to Chief Commissioner instead of to High Court.

[1] The words " with the previous sanction of the Governor General in Council" were repealed by Reg. I of 1910.

[2] *See* now Act V of 1908, General Acts, Vol. VI.

[3] *Supra.*

Provided that, if, on any reference being made to him under this section, the Chief Commissioner is of opinion that such reference is one which should be disposed of by the said High Court, he may return it to the Commissioner with a view to its being submitted to that Court as provided by the said sections 18 and 21.

Procedure on reference to Chief Commissioner.

37. The Chief Commissioner shall, on such reference being made to him unless he returns it for submission to the said High Court, proceed to deal with it in the same manner in all respects as the said High Court is required to do by sections 19 and 21, and his ruling or judgment thereon shall have the same effect as a ruling or judgment of the said High Court, and the Commissioner shall dispose of the case in conformity therewith.

The costs (if any) consequent on such reference shall be costs in the appeal out of which it arose.

CHAPTER III.

OF THE ADMINISTRATION OF CRIMINAL JUSTICE.

Chief Commissioner to discharge functions of High Court.

38. Except in reference to proceedings against European British subjects, or persons jointly charged with European British subjects, the Chief Commissioner shall discharge the functions of a High Court under the Code of Criminal Procedure.[1]

Commissioner to be District Magistrate and Sessions Judge.

[2]**39.** [(*1*) The Commissioner shall be District Magistrate and Sessions Judge.

(*2*) All orders passed by the Commissioner as District Magistrate shall, in cases where an appeal lies, be appealable to the Chief Commissioner, notwithstanding anything in the Code of Criminal Procedure to the contrary.]

Additional Sessions Judge.

[3][**40.** The Chief Commissioner may appoint the Additional District Judge to be Additional Sessions Judge, who shall exercise and discharge such powers and duties as the Chief Commissioner may direct.]

41. [*Power to transfer cases from one district to another, Rep. Reg. II of 1914.*]

THE SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by Reg. IX of 1893.

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

[2] Substituted for the original s. 39 by Reg. II of 1914, *infra*.

[3] This section 40 was inserted by *ibid*. The original s. 40 had been repealed by Reg. IX of 1893, *infra*.

THE AJMERE LAND AND REVENUE REGULATION, 1877.

[REG. II OF 1877.]

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
 Local extent.
 Commencement.
2. Interpretation-clause.

PART II.

OF CERTAIN INTERESTS IN LAND.

(*A*).—*Of certain Rights of the Government.*

3. Rights of Government in regard to mines and quarries.
4. Rights in regard to tanks.
5. Rights in regard to waters.
6. Use of Government pasturage, etc.

(*B*).—*Of Co-ownership and Partition.*

7. Rights of villagers over common lands of village.
8. Partition of common lands of village.
9. Partition of other lands.
10. Application for partition.
11. Notice to be issued.
12. Objection that the applicant is not entitled to share claimed.
13. Revenue-officer to be guided by orders of Civil Court on objection.
14. Other objections how dealt with.
15. Proceedings of Revenue-officer after objections have been disposed of.
16. Mode of making partition.
17. Order of partition when to be carried out.
18. Notification on completion of work.
 Date of taking effect.
19. Costs of partition.

(C).—Of Istimrari Estates.

SECTIONS.

20. " Istimrari estate " defined.
" Istimrardar " defined.
21. Tenants on Istimrari estates.
22. Alienation of Istimrari estates.
23. Succession to estate where there is male issue.
Rule of primogeniture.
What adoptions valid.
Adoption by widow.
24. Succession to estate when there is no male issue.
25. Claims for maintenance against Istimrardar.
26. Expropriation in Istimrari estates.
Collector's valuation final.
Such valuation how made—
when land is cultivated ;
when it is uncultivated ;
when there are trees, buildings or works.
Valuation may be made in absence of parties.
Vesting of land in Government.
Payment of compensation.
Certain sections of Act X of 1870 inapplicable.
Remainder of Act to apply.
27. Privileges of Istimrardars in criminal proceedings ;
28. in civil and revenue proceedings.
29. Decrees for money—
not to be executed after death of Istimrardar,
or passed against his representative.
30. Estates for which Istimrari sanads are granted after passing of Regulation.

(D).—Of Bhum.

31. " Bhum."
32. Proprietary right in Bhum.
33. Succession to Bhum where there is male issue.
34. Succession to Bhum where there is no male issue.
35. Claims for maintenance against Bhumia.
36. Restrictions on alienation and charging.

(E).—Of Holdings wholly or partially exempt from Assessment and of Revenue-assignments generally.

37. No exemption or assignment except under sanad.
38. Power to grant or recognise exemptions and assignments.
39. Questions whether right to exemption or assignment has determined.

SECTIONS.

40. Conditions regarding alienation, charging, succession and maintenance.

(F).—Of Ex-proprietary Tenants, and other Tenants with rights of Occupancy.

41. Ex-proprietary tenants.
42. Applications to fix rent.
43. Procedure thereon.
44. Grounds of enhancement during term for which rent fixed.
45. Grounds of abatement during same.
46. Enhancement and abatement orders when to take effect.
47. Changes from money to kind rents, and *vice versâ*.

(G).—Provision for the Division of Crops and the estimating of Produce between Landlord and Tenant.

48. Power to divide crop.
49. Remedy for error in division.
50. Power to estimate standing crop.
51. Remedy when estimate made in bad faith.

(H).—Of ejecting Tenants.

52. Certain tenants to be ejected only in execution of decree.
53. Mode of ejecting other tenants.
54. Ejectment in execution of decree for arrears.
55. Compensation claimable by tenant ejected.

(I).—Of Relinquishment by a Tenant.

56. When tenant-at-will may relinquish.

PART III.

OF LAND-REVENUE SETTLEMENTS.

(A).—Of the Assessment of the Land-revenue.

57. Offer of settlement of estate owned by one person.
58. Estate owned by several persons.
59. Term for which settlement is made.
60. Declaration of terms to person to be offered settlement.
61. Effect of acceptance of offer.
Sanction requisite to bind Government.

SECTIONS.
62. Exclusion of proprietors refusing to accept offer.
63. Allowance to persons excluded.
64. Joint and several liability.
"Perfect partition" when allowed.

(*B*).—*Of the Settlement-record.*

65. Settlement-record.
66. Entries in such record how made.
67. Proceedings to contest entry.
68. Entries presumed true.
69. Record to be delivered to Collector, and kept up by him.
70. Rules regarding maintenance of record.

(*C*).—*Miscellaneous.*

71. Continuance of assessment;
of record-of-rights.
72. Application of sections 64, 67 to 71.

PART IV.

OF THE COLLECTION OF THE LAND-REVENUE.

(*A*).—*Time and place for Payment of Revenue.*

73. Rules as to instalments and times and places of payment.
74. "Arrear," "Defaulter."

(*B*).—*Arrest and Imprisonment of Defaulter.*

75. Issue of warrant of arrest.
76. Order to bring defaulter to district head-quarters.
77. Delegation to subordinate Revenue-officer of powers under sections 75 and 76.
78. Commitment to civil jail.
79. Discharge of defaulter on enforcement of process under sections 82, 87 or 93.

(*C*).—*Attachment and Sale of Moveable Property.*

80. Attachment and sale of moveable property.
81. Procedure to be followed.

(*D*).—*Attachment of the estate without Cancellation of the Settlement, Leases, etc.*

SECTIONS.

82. Power to attach land.
83. Effect of attachment.
84. Profits of land how applied.
85. Attachment when to cease.

(*E*).—*Transfer to a solvent malguzar or incumbrancer.*

86. Application for transfer.
87. When it may be granted.
88. Case of several applications.
89. Conditions of transfer—
 for term;
 till arrear is repaid.
90. Application to have transfer under section 89 (*b*) made absolute. Proceedings thereon.
91. Joint and several liability not affected by transfer.

(*F*).—*Sequestration of the Estate with Cancellation of Settlement, Leases, etc.*

92. Notification preliminary to sequestration.
93. Order of sequestration.
94. Effect of such order.
95. Expiry of period of sequestration.

(*G*).—*Miscellaneous.*

96. Recovery of arrears by attachment of immoveable property other than estate.
97. Recovery of—
 (*a*) land-revenue due;
 (*b*) rent on Government-land, etc.;
 (*c*) other moneys.

(*H*).—*Recovery of Revenue through Headmen.*

98. Other malguzars to pay headmen.
99. Distraint abolished.
100. Joinder of defendants in suits for arrears.

PART V.

OF COURTS OF WARDS.

101 to 105. [*Repealed.*]

PART VI.

MISCELLANEOUS.

106. Erection and repair of boundary-marks.
107. Additional powers which may be conferred on Revenue-officers.
108. Functions of Collector how discharged.
109. Chief Commissioner's power of revision.
110. Additional power to make rules.
111. Power to prescribe penalty for breaches of rules.
112. Rules how to be published.
Force of rules.
113. Consolidation and republication of rules.
114. First appeals.
115. Second appeals.
116. Limitation of appeals.
117. Order in first appeal, when confirming original decision, final.
118. No certificates for Revenue-agents to be granted.
119. Proceedings under Regulation not to be impeached.
Limitation of Jurisdiction of Civil Courts.

REGULATION No. II OF 1877.

[THE AJMERE LAND AND REVENUE REGULATION, 1877.]

A Regulation to declare and amend the law relating to certain interests in land and to the assessment and collection of land-revenue in Ajmere and Merwara.

(*Published in the Gazette of India, 1877, Part I, p. 623, and in the Rajputana Official Gazette, 1878, p. 32.*)

Preamble. WHEREAS it is expedient to declare and amend the law relating to certain interests in land and to the assessment and collection of land-revenue in Ajmere and Merwara ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. **1.** This Regulation may be called the Ajmere Land and Revenue Regulation, 1877.

Local extent.

It extends to all the territories now under the administration of the Chief Commissioner of Ajmere and subject to the provisions of the 33 Vict.,[1] cap. 3, section 1;

Commencement.

And it shall come into operation on such date[2] as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, direct.

Interpretation-clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

(*a*) "agricultural year" means the year beginning on the 1st of June;

(*b*) "Collector" means any officer appointed by the Chief Commissioner to discharge the functions of a Collector under this Regulation in [the whole or][3] any part of the said territories: * * * * *[4]

(*c*) "Revenue-officer" includes—

(*1*) the Commissioner of Ajmere when acting under this Regulation or under any rule made under this Regulation;

(*2*) a collector; and

(*3*) any person whom the Chief Commissioner, * * * * *[5] may from time to time [6]appoint by name or by office to do anything required by this Regulation to be done by a Revenue-officer, or anything to be done by a Government officer under this Regulation or under any rule made under this Regulation, and for the doing of which no agency is specially provided by this Regulation;

(*d*) "málguzár" means a person liable under section 64 for the payment of the revenue assessed upon an estate:

(*e*) "section" means a section of this Regulation.

PART II.

Of certain Interests in Land.

(A).—Of certain Rights of the Government.

Rights of Government in regard to mines and quarries.

[7]3. (*1*) Except in the case of lands in respect of which istimrari sanads have been granted by the Chief Commissioner with the previous sanction

[1] The Govt. of India Act, 1870, printed in collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. *See* footnote to heading of Pt. III of this Code.

[2] The 1st January, 1878, *see* Gazette of India, 1877, Pt. II, p. 712.

[3] Inserted by Reg. II of 1914, *infra*.

[4] The words "and includes a Collector when discharging the functions of a Court of Wards under this Regulation" were repealed by the Ajmere Government Wards Regulation, 1888 (I of 1888), s. 2 (*1*), *infra*.

[5] The words "subject to the control of the Governor General in Council" were repealed by Reg. II of 1914, *infra*.

[6] For officers appointed Revenue-officers under s. 2 (*3*), *see* the Ajmere Local Rules and Orders, and Gazette of India, 1902, Pt. II, pp. 1081 and 1082, *ibid*, 1907, Pt. II, p. 1292.

[7] This section was substituted for the original s. 3 by Reg. V of 1907, *infra*.

of the Governor General in Council, the Government shall be presumed, until the contrary is proved,—

(*a*) to be the sole owner of all mines, opened and unopened, of metal, coal and other valuable minerals;

(*b*) to be entitled to take free, or authorize persons who have entered into any contract with it to take free, from any quarry, whether previously worked or not, as much stone, kankar, gravel, sand or other like substance as is needed for any public purpose.

(*2*) In the case of any land wherein any right to minerals is reserved to or otherwise belongs to Government, the Government shall have all powers necessary for the proper enjoyment of such right, and may transfer any such right or power to any persons in such manner as to it may seem fit.

(*3*) Whenever in the exercise of any such right or power by the Government, or by any person to whom the Government may have transferred such right or power, the rights of any owner or occupier of any such land are infringed by the occupation or disturbance of the surface of such land, the Government shall pay or cause to be paid to such owner or occupier such amount of compensation for any damage so caused as may be determined by the Revenue-officer.

(*4*) Nothing herein contained shall affect the concession made in respect of mines and quarries in State-forests by section 6 of the Ajmere Forest Regulation, 1874.[1] Reg. VI of 1874.

Rights in regard to tanks.

4. The soil of all tanks constructed by the Government, including the embankments of the same, shall be deemed to be the property of Government.

Rights in regard to waters.

5. The Government shall be presumed, until the contrary is proved, to be entitled to the exclusive use and control of the water of all rivers and streams flowing in natural channels, and of all natural collections of water, and of all tanks constructed by the Government.[2]

Use of Government pasturage, etc.

6. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the permission of the Revenue-officer and subject to such rules as may from time to time be prescribed by the Chief Commissioner.

(B).—Of Co-ownership and Partition.

Rights of villagers over common lands of village.

7. Any one of the proprietary body of any village who, with the consent of a majority of such body, permanently improves any common land in such village by sinking a well, constructing an embankment, planting, draining or otherwise, shall become the owner of such land.

[1] *Supra.*

[2] *See* further the Ajmere Irrigation Regulation, 1887 (VIII of 1887), *infra.*

Unimproved common land shall be deemed to be held on a tenure-at-will from the proprietary body, unless there is a written agreement to the contrary between such body and the holder.

Partition of common lands of village.

8. Any person recorded as a sharer in the common lands of a village may apply for partition of such lands. Every application under this section shall be presented and dealt with in the manner provided by sections 10 to 19, inclusive.

Partition of other lands.

9. Any person recorded as a sharer in land, not being common land of a village, may apply for a partition of such land in the manner hereinafter prescribed: Provided that the area of land in each share, after such partition shall not be less than ten bighas of well-land, fifteen bighas of talabi or abi land, or thirty bighas of unirrigated land, or a proportion of such classes of land equivalent to ten bighas of well-land.

Application for partition

10. Every application under section 9 shall be in writing, shall be presented to the Revenue-officer, and shall specify the area of the land, the applicant's share and the names of the other sharers.

Notice to be issued.

11. The Revenue-officer shall cause notice of such application to be served on the sharers named therein and published in the village in which the land is situated.

Objection that applicant is not entitled to share claimed.

12. If, within one month from the date of the publication of any notice under section 11, any objection is made to the partition to which it relates, on the ground that the applicant is not entitled to the share of the land of which he is recorded as owner, the Revenue-officer shall stay his proceedings for such time as, in his opinion, is sufficient to admit of a suit being instituted in the Civil Court to try such objection.

Every Revenue-officer staying his proceedings under this section shall make an order requiring the objector, or, if for any reason he deems it more equitable, the applicant, to institute such a suit within the time fixed, and in the event of such a suit not being instituted within the said time, may in his discretion disallow the objection or dismiss the application as the case may be.

Revenue-officer to be guided by orders of Civil Court on objection.

13. On a suit being instituted to try any objection under section 12, the Revenue-officer shall, with reference to such objection, be guided by the orders passed by the Court in such suit.

Other objections how dealt with.

14. If within the period of one month as aforesaid any objection other than an objection of the nature referred to in section 12 is made to the partition, the Revenue-officer shall dispose of it himself; unless for any reason he thinks fit to require that it be submitted to a Civil Court for adjudication, in which event the provisions of sections 12 and 13 shall apply to such objection.

Proceedings of Revenue-officer after objections

15. When the period of one month from the date of the publication of the notice issued under section 11 has expired, and the objections (if any) made have been disposed of by the Revenue-officer, or by the Civil Court, as

have been disposed of.

the case may be, the Revenue-officer shall, if no such objection has been allowed, proceed to make the partition :

Provided that the Revenue-officer may in his discretion, in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, from time to time further postpone his proceedings.

Mode of making partition.

16. Every Revenue-officer proceeding to make a partition shall pass an order determining the mode in which such partition is to be made.

A partition may, in the discretion of the Revenue-officer, be made in any one of the following modes, that is to say :—

(*a*) by the sharers themselves if they agree so to make it ;

(*b*) by arbitrators chosen by the sharers if they consent to choose arbitrators ;

(*c*) by the Revenue-officer and his subordinates ;

(*d*) by arbitrators appointed by the Revenue-officer.

Order of partition when to be carried out.

17. The execution of any order passed under section 16 shall be deferred for fifteen days to admit of an appeal being preferred against such order.

At the expiration of the period of fifteen days, if no such appeal has been preferred, or, if such an appeal has been preferred, on its determination, the partition may be carried out.

Nothing herein contained shall affect any right to appeal hereinafter conferred.

Notification on completion of work.

18. On the completion of the partition, the Revenue-officer shall publish a notification of the fact at his office and in the village in which the land partitioned is situate.

Date of taking effect.

The partition shall take effect from such date as may be fixed by such notification.

Costs of partition.

19. The cost of making the surveys requisite for and preparing the records of a partition of any land shall be determined by the Revenue-officer, and recovered from the sharers in such land in such proportions as he may direct.

(*C*).—*Of Istimrari Estates.*

"Istimrari estate" defined.

20. "Istimrari estate" means an estate in respect of which an istimrari sanad has been granted, before the passing of this Regulation, by the Chief Commissioner with the previous sanction of the Governor General in Council.

"Istimrardar" defined.

"Istimrardar" means the person to whom such sanad has been granted, or any other person who becomes entitled to the istimrari estate in succession to him as hereinafter provided.

Tenants on istimrari estates.

21. All tenants of any land, whether culturable or not, comprised in an istimrari estate, shall be presumed, until the contrary is proved, to be tenants-at-will.

22. No Istimrardar shall— Alienation of istimrari estates.

(*a*) permanently alienate his istimrari estate or any portion thereof by sale, gift or otherwise, except under the law for the time being in force relative to the acquisition of land for public purposes; or

(*b*) alienate or charge such estate or any portion thereof by lease, mortgage or otherwise, for any term extending beyond his own life, except by way of giving security for an advance under the Land Improvement Loans Act, 1871,[1] or other law for the time being in force relative to advances of money by Government for the improvement of land.

XXVI of 1871.

Any alienation made or charge created in contravention of the prohibition herein contained shall be void.

23. When an Istimrardar dies leaving sons or male issue descended from him through males only whether by birth or adoption or when after the death of an Istimrardar his widow has power to adopt and adopts a son to him, the istimrari estate shall devolve as nearly as may be according to the custom of the family of the deceased: Succession to estate where there is male issue.

Provided—

1st, that the descent shall in all cases be to a single heir according to the rule of primogeniture; Rule of primogeniture.

2nd, that no adoption shall be deemed valid unless it is made by a written document deposited with the Collector or the Registrar of the district; What adoptions valid.

3rd, that no adoption made by a widow shall be deemed valid until confirmed by the Governor General in Council. Adoption by widow.

24. Any question as to the right to succeed to an istimrari estate arising in a case not provided for by section 23 shall be decided by the Governor General in Council, or by such officer as he may [2] appoint in this behalf: Succession to estate when there is no male issue.

Provided that the Governor General in Council, if he thinks fit, instead of deciding such question himself or appointing any officer to decide the same, may grant to any person claiming to succeed as aforesaid a certificate declaring that the matter is one proper to be determined by a Civil Court.

The person to whom such certificate is granted may institute a suit to establish his right in any Court otherwise competent under the law for the time being in force to try the same, and such Court may, upon the production of such certificate before it, entertain such suit.

25. All claims for maintenance or to hold land in lieu of maintenance against an Istimrardar by any member of his family shall be preferred through Claims for maintenance against Istimrardar.

[1] *See* now the Land Improvement Loans Act, 1883 (XIX of 1883), General Acts, Vol. III.

[2] For notification under s. 24 appointing the Chief Commissioner, *see* Ajmere Local Rules and Orders.

the Commissioner to the Chief Commissioner, whose decision thereon shall be conclusive.

Expropriation in istimrari estates.

26. When land situate in an istimrari estate is to be acquired under the Land Acquisition Act, 1870,[1] for the purpose of constructing a railway, or for any other object which in the opinion of the Chief Commissioner may reasonably be expected to improve the value of such estate,— X of 1870.

Collector's valuation final.

1st, the determination of the Collector under section 11 of that Act, as to the amount of compensation to be allowed for such land, shall be final and conclusive:

Such valuation how made—

2nd, in arriving at such determination the Collector, instead of taking into consideration the market-value of such land as required by sections 13 and 24 of that Act, shall fix the value of such land in manner following, that is to say:—

when land is cultivated;

(*a*) when such land is cultivated, he shall ascertain the amount of revenue which would be assessed on such land if it were being fully assessed to land-revenue under the law for the time being in force, and shall allow twenty times the amount so ascertained, and, when such land is uncultivated, he shall notwithstanding the existence of any custom by which such land would be given free of charge, ascertain the amount of revenue which would be assessed on such land if it were cultivated, and were being fully assessed as aforesaid, and shall allow three times the amount so ascertained;

when it is uncultivated;

when there are trees, buildings or works.

(*b*) he shall allow, besides the amount allowed under clause (*a*) such further amount in respect of any trees and of any wells, tanks, embankments, houses and other works and buildings on such land as under all the circumstances of the cases he may deem fair and reasonable:

Valuation may be made in absence of parties.

3rd, he may determine the amount of such compensation notwithstanding that no person interested in such land has appeared before him in pursuance of the notice issued by him under section 9 of the said Act:

Vesting of land in Government.

4th, when he has determined the amount of such compensation, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Payment of compensation.

5th, on determining the amount of compensation, he may pay that amount to the persons whom he deems entitled thereto; but nothing herein contained shall affect the liability of any person who may receive the whole or any part of such compensation to pay the same to the person lawfully entitled thereto;

[1] See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

6th, sections 14 to 16 (both inclusive), sections 18 to 23 (both inclusive) and sections 26 to 42 (both inclusive) of the said Land Acquisition Act, 1870,[1] shall not apply to the cases herein referred to: Certain sections of Act X of 1870 inapplicable.

X of 1870.

7th, except as hereinbefore provided, the provisions of that Act, so far as they may be applicable consistently with the provisions hereinbefore contained, shall apply to such cases. Remainder of Act to apply.

27. No criminal proceeding against any Istimrardar shall be instituted except in the Court of the Magistrate of the district, or in that of the Sessions Judge; Privileges of Istimrardars in criminal proceedings;

and no such proceeding shall be instituted in either of the said Courts without the previous sanction of the Chief Commissioner:

Provided that a Magistrate of the district or the Sessions Judge may allow any such proceeding to be instituted in his Court without such sanction when he thinks, for reasons to be recorded by him in writing, that the immediate institution of such proceeding is necessary to prevent a failure of justice

The Chief Commissioner may quash any proceeding the institution of which has been so allowed without his sanction.

28. No Istimrardar shall be arrested in execution of any process of any Civil or Revenue Court, except with the previous sanction of the Chief Commissioner. In civil and revenue proceedings.

29. Notwithstanding anything contained in section 234 or section 252 of the Code of Civil Procedure[2] or in any other enactment in force at the time this Regulation is passed,— Decrees for money

no decree for money against an Istimrardar shall be executed after his death, and no decree for money shall be passed against any person as the representative of a deceased Istimrardar: Provided that nothing herein contained shall prevent the enforcement of a lien or other charge against any property not being part of an istimrari estate. not to be executed after death of Istimrardar, or passed against representative.

30. The Chief Commissioner may, with the previous sanction of the Governor General in Council, direct that all or any of the provisions of sections 22 to 29 (both inclusive) shall apply in the case of any estate in respect of which an istimrari sanad may be granted by such Chief Commissioner with the sanction of the Governor General in Council after the passing of this Regulation. Estates for which istimrari sanads granted after passing of Regulation.

(D).—Of Bhum.

31. "Bhum" means land in respect of which a Bhum sanad may have been granted, whether before or after the passing of this Regulation, by the Commissioner with the sanction of the Governor General in Council. "Bhum."

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

[2] *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

Proprietary right in Bhum.

32. No person shall be deemed to have any proprietary right in such land except the persons named in such sanad and their successors in interest thereunder.

Succession to Bhum where there is male issue.

33. When a Bhumia dies leaving sons, or male issue descended from him through males only, whether by birth or adoption, or when after the death of a Bhumia his widow has power to adopt and adopts a son to him, the Bhum shall devolve according to the custom of the family.

Succession to Bhum when there is no male issue.

34. Any question as to the right to succeed to Bhum arising in a case not provided for by section 33 shall be decided by the Governor General in Council or by such officer as he may [1] appoint in this behalf:

Provided that the Governor General in Council, if he thinks fit, instead of deciding such question himself or appointing any officer to decide the same, may grant to any person claiming to succeed as aforesaid a certificate declaring that the matter is one proper to be determined by a Civil Court.

The person to whom such certificate is granted may institute a suit to establish his right in any Court otherwise competent under the law for the time being in force to try the same, and such Court may, upon the production of such certificate before it, entertain such suit.

Claims for maintenance against Bhumia.

35. All claims for maintenance or to hold land in lieu of maintenance against a Bhumia by any member of his family shall be preferred through the Commissioner to the Chief Commissioner, whose decision shall be conclusive.

Restrictions on alienation and charging.

36. Except under the law for the time being in force relative to the acquisition of land for public purposes, no person holding under a Bhum sanad shall alienate or charge the Bhum or his share thereof by sale, gift, lease, mortgage or otherwise to or in favour of any person not being a co-sharer holding under the same sanad.

Any alienation made or charge created in contravention of the prohibition herein contained shall be void.

(E).—Of Holdings wholly or partially exempt from Assessment and of Revenue-assignments generally.

No exemption or assignment except under sanad.

37. No person shall be deemed entitled to any exemption, total or partial, from the land-revenue-assessment or to any assignment of land-revenue, except under a sanad granting or recognizing such exemption of assignment issued by or under the authority of the Chief Commissioner as hereinafter provided.

Power to grant or recognize exemptions and assignments.

38. It shall be in the discretion of the Chief Commissioner, subject to such limitations as may be prescribed by the Governor General in Council, to grant or recognize, either absolutely or subject to conditions, any such exemptions or assignments.

[1] For notification under s. 34 appointing the Chief Commissioner to exercise these powers, *see* Ajmere Local Rules and Orders.

Question whether right to exemption or assignment has determined.

39. If any question arises as to whether any event on which any such exemption or assignment is determinable has occurred, or as to whether any condition subject to which such exemption or assignment may have been granted or recognized has been fulfilled, the decision of the Chief Commissioner thereon shall, subject only to an appeal to the Governor General in Council, be conclusive.

Conditions regarding alienation charging succession and maintenance.

40. If in granting or recognizing any exemption from the land-revenue-assessment in favour of the owner of any land, the Chief Commissioner, with the previous sanction of the Governor General in Council, makes it a condition of his grant or recognition that all or any of the rules regarding alienation, charging, succession or maintenance prescribed for istimrari estates by sections 22 to 25, inclusive, and for Bhum by sections 31 to 36, inclusive, or any other special rules regarding alienation, charging, succession or maintenance, shall apply to such land,

and the then owner of such land accepts the grant or recognition on such condition,

such rules shall thenceforward apply to such land.

Of Ex-proprietary Tenants and other Tenants with Rights of Occupancy.

Ex-proprietary tenants.

41. Any person who may have, whether before or after the passing of this Regulation, lost or parted with his proprietary rights in any holding, either temporarily or permanently, and has since continued in occupation of any of the lands comprised in such holding which, as proprietor, he retained under his own cultivation, shall have a right of occupancy in such lands at a rent five annas four pies in the rupee less than the prevailing rate payable by tenants-at-will for lands of similar quality and with similar advantages in the neighbourhood.

Such persons are hereinafter called "ex-proprietary tenants."

Any agreement executed, whether before or after the passing of this Regulation, by an ex-proprietary tenant to pay a higher rate of rent than that prescribed by this section, shall be void.

Applications to fix rent.

42. When the rent of an ex-proprietary or other occupancy-tenant of any land has not been fixed at settlement, or when the rent was then fixed but the term for which it was then fixed has expired, such tenant or his landlord may apply to the Revenue-officer to fix the rent of such land.

Procedure thereon.

43. On receiving such application, the Revenue-officer shall ascertain the productive powers of such land, and proceed to determine the rent payable by such tenant—

(*a*) where such tenant is not an ex-proprietary tenant—at the prevailing rate paid by similar tenants for land of a similar quality with similar advantages, in the neighbourhood;

(*b*) where such tenant is an ex-proprietary tenant—at the rate payable by such tenant under the provisions of section 41.

Grounds of enhancement during term for which rent fixed.

44. When the rent of any occupancy-tenant has been fixed at settlement or under section 43, the landlord may, during the term for which it has been so fixed, apply to the Revenue-officer to enhance the rent of such tenant on any of the following grounds, and on no other :—

(*a*) that the quantity of land held by such tenant has been increased by alluvion or has been proved by measurement to be greater than the quantity for which rent has been previously paid by him ;

(*b*) that the value of the produce of such land has risen, or the productive powers of such land have been increased, otherwise than by the agency or at the expense of the tenant.

Grounds of abatement during same.

45. Any occupancy-tenant whose rent has been fixed as aforesaid may, during the term for which it has been so fixed, apply to the Revenue-officer for an abatement of his rent on any of the following grounds and on no other :—

(*a*) that the area of the land held by him has been diminished by diluvion, or has been proved by measurement to be less than the quantity for which rent has been previously paid by him ;

(*b*) that the value of the produce of such land has fallen, or the productive powers of such land have been decreased, by any cause beyond his control.

Enhancement and abatement orders when to take effect.

46. Every order for enhancement or abatement of rent made under section 44 or section 45 shall take effect from the commencement of the agricultural year next following the date of such order.

Changes from money to kind rents, and *vice versâ*.

47. No change of the method of paying rent from money to kind, or from kind to money, shall be ordered without the consent of both the landlord and the tenant :

Provided that the Collector may, where a dispute arises between an exproprietary tenant and his landlord, commute rent payable by such tenant in kind to rent in money.

(G).—Provisions for the Division of Crops and the estimating of Produce between Landlord and Tenant.

Power to divide crop.

48. When the rent of any land is payable by division of a crop grown on such land, the Revenue-officer may, on an application being made either by the landlord or by the tenant when such crop is ripe, proceed to such land on a day of which notice shall be given to both parties, and cause such crop to be cut or gathered and divided in accordance with the shares to which, upon such enquiry as he deems fit to make, it appears to him the parties are respectively entitled.

Remedy for error in division.

49. If owing to an error of such Revenue-officer either party in such division receives less than the share to which he is entitled, such party may, within three months from the date on which such division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him, at the price which prevailed on such date.

If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed to have been rightly made.

Power to estimate standing crop.

50. When the rent of any land is to be determined by an estimate of a crop standing on such land, the Revenue-officer may, on an application being made either by the landlord or by the tenant when such crop is ripe, proceed to such land on a day of which notice shall be given to both parties, and determine the yield of such crop in manner following, that is to say :—

(*a*) each of the parties shall appoint an arbitrator and the Revenue-officer shall appoint a third arbitrator ;

(*b*) if either party fails to attend or appoint an arbitrator, the Revenue-officer may appoint an arbitrator for him ;

(*c*) the arbitrators thus appointed shall inspect the crop, and, if any two of them agree in their estimate thereof, the Revenue-officer shall declare the rent to be payable in accordance with such estimate ;

(*d*) if no two of the arbitrators agree in their estimate, the Revenue-officer shall, after inspecting the crop, make his own estimate thereof, and declare the rent to be payable in accordance therewith.

Remedy when estimate made in bad faith.

51. Either party may, within three months from the date on which a declaration is made under section 50, institute a suit against the other party to set aside such declaration on the ground that the estimate on which it is based was made in bad faith, and on no other ground.

If no such suit is instituted within the period thus limited, such declaration shall be for all purposes final and conclusive.

(*H*).—*Of ejecting Tenants.*

Certain tenants to be ejected only in execution of decree.

52. No tenant with a right of occupancy or holding under an unexpired lease shall be ejected otherwise than in execution of a decree for ejectment, or as provided in section 54 ; and no ex-proprietary tenant shall be ejected in either of these modes without the sanction of the Commissioner previously obtained.

Mode of ejecting other tenants.

53. If a landlord desire to eject a tenant not being a tenant of any of the classes referred to in section 52, he may cause a written notice of ejectment to be served on such tenant not less than one month before the commencement of any agricultural year.

If the tenant does not quit the land before the commencement of such year, the landlord may present an application to the Revenue-officer for assistance to eject.

The Revenue-officer, if satisfied,—

(*1*) that the tenant is not a tenant of any of the classes referred to in section 52, and,

(2) that the notice of ejectment was served as hereinbefore required, may order the ejectment of such tenant.

(*6*) a statement of persons holding land revenue-free in such estate, and of the lands so held:

(*7*) a record of any customs prevailing in such estate:

(*8*) an abstract of the proceedings at such settlement.

Entries in such record how made.

66. Entries in the settlement-record shall be made on the basis of actual possession and existing usage, and shall be authenticated by the signature of the Revenue-officer.

Proceedings to contest entry.

67. Any person who considers himself aggrieved by an entry in the settlement-record may appeal to the authorities to whom an appeal lies under this Regulation, or, when the entry is one in the first, third, fourth or seventh document mentioned in section 65, may, instead of so appealing, or, if he prefers an appeal and is dissatisfied with the order passed thereon by any such authority, bring a suit in the Civil Court against any other persons interested in such entry to have such entry amended.

Entries presumed true.

[1] **68.** Entries in the settlement-record made in the course of a settlement and authenticated under section 66 shall be presumed to be correct till the contrary is proved.

Record to be delivered to Collector, and kept up by him.

69. The settlement-record shall be made over to the Collector at such time as the Chief Commissioner may direct.

[1] The Collector shall, subject to any rules made under section 70, from time to time record, or cause to be recorded, all facts affecting any matters stated in the settlement-record, which occur subsequently to such record being made over to him.

Rules regarding maintenance of record.

[1] **70.** The Chief Commissioner may from time to time by rule determine—

(*a*) what facts shall be so recorded, and the manner in which the persons by whom, and the occasions on which, such facts shall be brought to notice and recorded;

(*b*) what fees shall be payable in respect of the recording of such facts by any persons concerned in or affected by the occurrence of such facts.

(*C*).—*Miscellaneous.*

Continuance of assessment;

71. If the term for which any assessment of an estate has been made expires before a new settlement of such estate is made, all persons who continue to occupy land comprised in such estate after the expiration of such term shall hold such land upon the conditions of such assessment until a new settlement is made.

of record-of-rights.

In all cases the existing record-of-rights shall continue in force until a new record-of-rights is made.

[1] Sections 68, 69 (second paragraph) and 70 were repealed by s. 6 of the Ajmere Patwári Regulation, 1895. (III of 1895), in the estates mentioned in the Schedule to that Regulation. Reg. III of 1895 has been repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), which has not been printed in this Code as it is spent in Ajmer-Merwara.

72. Section 64 and sections 67 to 71 (both inclusive) shall, so far as they may be applicable, apply to the settlement concluded in 1874. Application of sections 64, 67 to 71.

PART IV.

OF THE COLLECTION OF THE LAND-REVENUE.

(A).—Time and Place for payment of Revenue.

73. The Chief Commissioner may from time to time make rules [1] as to the instalments by which, and the places and times at which, the revenue payable in respect of any estate shall be paid, and as to the mode in which notice of such instalments, places and times shall be given to the persons concerned. Rules as to instalments and times and places of payment.

Until the Chief Commissioner otherwise directs, the practice in respect of such matters prevailing at the time this Regulation comes into operation shall continue.

74. Any sum not paid as required by section 73 or the rules framed thereunder shall be deemed to be an arrear of land-revenue, and every person liable for it shall be deemed to be a defaulter. "Arrear." "Defaulter."

(B).—Arrest and Imprisonment of Defaulter.

75. When an arrear of land-revenue has accrued, the Collector may issue a warrant ordering any defaulter to pay the whole or any part of such arrear within a time therein specified, and may empower an officer named in such warrant, in the event of the amount demanded not being so paid, to arrest such defaulter and bring him to the tahsil. Issue of warrant of arrest.

76. If, when the time named in such warrant has expired, the defaulter is brought to the tahsil, and does not either pay such amount or the portion thereof remaining unpaid (as the case may be), or show good reason for extending the time for payment thereof, the Collector may direct him to be conveyed to the Collector's headquarters, and there kept under personal restraint for ten days or until he pays such amount or such portion thereof within that period. Order to bring defaulter to district headquarters.

77. The Collector * * * * * * * [2] may empower any Revenue-officer subordinate to him, and not being of lower grade than that of Tahsildar to exercise the powers conferred on the Collector by sections 75 and 76. Delegation to subordinate Revenue-officer of powers under sections 75 and 76.

78. If the amount named in any warrant issued under section 75 or the portion thereof remaining unpaid (as the case may be) is not paid within the Commitment to civil jail.

[1] For rules under s. 73 in conjunction with s. 110 for the assessment and payment of land-revenue, *see* Ajmere Local Rules and Orders.

[2] The words "with the previous sanction of the Commissioner" were repealed by Reg. II of 1914, *infra*.

period of ten days fixed by section 76, and no good reason for the delay in the payment thereof is shown, the Collector may, by his warrant, commit the defaulter to the civil jail, to be there detained for such period not exceeding six months, or, if such amount or such portion thereof is more than five hundred rupees, for such period not exceeding one year, from the date of such warrant, as such Collector thinks fit, unless such amount or such portion thereof is sooner paid.

Discharge of defaulter on enforcement of process under sections 82, 87 or 93.

79. Whenever any of the processes provided in sections 82, 87 and 93 is taken in respect of an arrear, any defaulter whose holding has been attached, transferred or sequestered shall, if he is in custody under sections 75, 76 or 78, be forthwith discharged.

(C).—Attachment and Sale of Moveable Property.

Attachment and sale of moveable property.

80. Instead of, or in addition to, the proceedings authorized by sections 75 to 78 inclusive, the Collector may, in order to realize the whole or any portion of an arrear, order the attachment and sale of the moveable property of any defaulter with the exception of the following, that is to say :—

(*a*) implements and materials used in husbandry and animals kept for agricultural purposes ;

(*b*) implements of trade or of domestic industry ; and

(*c*) the necessary wearing-apparel of such defaulter and of his wife and children.

Procedure to be followed.

81. Every attachment and sale ordered under section 80 shall be conducted as nearly as may be according to the law in force for the time being for the attachment and sale of moveable property in execution of a decree of a Civil Court.

(D).—Attachment of the Estate without Cancellation of the Settlement, Leases, etc.

Power to attach land.

82. When an arrear of revenue has accrued in respect of any land, the Collector may, in addition to, or instead of, the processes hereinbefore specified, cause such land or any part thereof to be attached and taken under the direct management of any agent whom he appoints in that behalf.

Effect of attachment.

83. During the continuance of an attachment under section 82, the defaulters shall be excluded from possession of the land attached, and the agent appointed by the Collector shall stand for all purposes in their position, being bound by all their liabilities to any subordinate proprietors, incumbrancers or tenants of, or on, such land, and being entitled to manage such land, and to receive all rents and profits accruing due to such defaulters therefrom.

Profits of land how applied.

84. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue falling due upon such land during the attachment, and next, to discharging the arrear.

85. The attachment shall continue until the arrear is paid or realized from the profits of the land, or the Collector thinks fit to reinstate the defaulters in possession. Attachment when to cease.

(*E*).—*Transfer to a solvent Malguzar or Incumbrancer.*

86. When an arrear accrues in respect to any estate, owing to one of the malguzars thereof failing to contribute the portion of the revenue chargeable as between him and the other malguzars of such estate to his holding, any other malguzar of such estate, or any mortgagee or other incumbrancer of, or on, such holding may present a petition to the Collector, offering to take over such holding and pay the portion of the arrear chargeable thereto either in a lump sum or by instalments. Application for transfer.

87. If the Collector is satisfied that the arrear has accrued owing to such failure, and that such offer ought to be accepted, he may suspend the execution of any other process taken for the realization of the arrear, and transfer the holding to the applicant. When it may be granted.

88. Where more than one application is made under section 86, the Collector shall, all other things in his opinion being equal, give a malguzar the preference to an incumbrancer, and among several malguzars shall give the preference to the applicant who, in case the defaulting malguzar's holding were sold, would have a right of pre-emption. Case of several applications.

89. Any transfer under section 87 may be made subject to such conditions as the Collector thinks fit, and may be either— Conditions of transfer—

(*a*) for a term not exceeding fifteen years, on the expiry of which the excluded malguzar shall be entitled to re-enter without making good the arrear, or for term;

(*b*) until the amount of the arrear paid by the transferee is repaid to him by such malguzar. till arrear is repaid.

90. When a transfer is made under section 89, clause (*b*), and the amount of the arrear is not repaid within twelve years from the date thereof, the transferee may apply to the Collector to publish a notification declaring that if such amount is not repaid to the transferee within one year from the date of such notification, such transfer will become absolute. Application to have transfer under section 89 (*b*) made absolute.

The Collector may, if he thinks fit, publish such notification, and, if the amount of the arrear is not so repaid before the expiration of one year from the date of such notification, the transfer shall become absolute. Proceedings thereon.

91. No proceedings taken under sections 86 to 90, inclusive, shall affect the joint and several liability of the malguzars of the estate in which they are taken, for arrears accruing on such estate subsequently to the transfer of the holding of the defaulting malguzar, except that, as regards all such arrears the transferee shall stand in the place of such malguzar. Joint and several liability not affected by transfer.

(F).—Sequestration of the Estate with Cancellation of Settlement, Leases, etc.

Notification preliminary to sequestration.

92. When any arrear of land-revenue due in respect of an estate remains unpaid for more than one month, the Collector may, with the previous sanction of the Chief Commissioner, cause to be published and served upon the person concerned a notification announcing that, unless such arrear is paid within fifteen days from the date thereof, he will sequester such estate or such portion thereof as may be specified in such notification.

Order of sequestration.

93. If such arrear is not paid within fifteen days from the date of such notification, the Collector * * * * * * *[1] may make an order directing that such estate or portion be sequestered, and the defaulters excluded therefrom for a period not exceeding fifteen years from the date of such order, and not extending beyond the term of settlement.

Effect of such order.

94. On an order of sequestration being passed under section 93, the following consequences shall ensue :—

(*a*) the execution of any other process taken for the realization of the arrear from the excluded defaulters shall be suspended ;

(*b*) the settlement of the estate shall be cancelled;

(*c*) all liens, leases and other incumbrances created by such defaulters, or by any person through whom they claim, over the estate or portion thereof sequestered may, at the option of the Collector, be cancelled ;

(*d*) the Collector may take possession of such estate or portion thereof and either appoint an agent to manage it or let it in farm on such terms as the Chief Commissioner may by rule prescribe ;

(*e*) all persons in occupation of any land comprised in such estate or portion thereof shall be bound to pay rent at such rates as the Collector may in his discretion from time to time think proper to fix.

Expiry of period of sequestration.

95. On the expiry of the period of sequestration, the estate or portion thereof sequestered shall revert to the excluded defaulters without payment by them of the arrear for which it was sequestered.

(G).—Miscellaneous.

Recovery of arrears by attachment of immoveable property other than estate.

96. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the Collector may, with the previous sanction of the Chief Commissioner, order the attachment under sections 82 to 85, inclusive, of any immoveable property of the defaulters other than that in respect of which such arrear has accrued, and may apply the provisions of those sections to such property until such arrear is discharged.

Recovery of—

97. The provisions of this Part shall, as far as may be, apply to the recovery of the following, that is to say :—

land-revenue due ;

(*a*) land-revenue due at the time when this Regulation comes into operation ;

[1] The words " with the previous sanction of the Commissioner " were repealed by Reg. II of 1914, *infra*.

(*b*) rent payable to the Government in respect of land owned by the Government or held under direct management in exercise of the powers conferred by sections 62, 82 and 91 or otherwise; rent on Government land, etc.;

(*c*) fees, costs or other money payable under this Regulation or under any rule made in exercise of a power conferred by this Regulation. other moneys.

(H).—Recovery of Revenue through Headmen.

98. In any estate in which headmen have been appointed, the remaining malguzars shall be bound, on demand made by the headmen fifteen days before an instalment of revenue falls due, to pay to such headmen the portions of such instalment which as between themselves are chargeable to their holdings respectively. Other malguzars to pay to headmen.

But no proceedings shall be instituted or maintained by a headman for the recovery of any sum so chargeable to a holding in an estate after the Collector has informed such headmen that the Government demand on such estate has been remitted to an amount equal to such sum, and that such remission has been granted with special reference to such holding.

99. The power of distraint now exercisable by village-headmen as such shall cease to exist. Distraint abolished.

100. A village-headman may sue one or more co-sharers in the same suit for sums demandable on account of the same instalment of revenue. Joinder of defendants in suits for arrears.

PART V.

Of Courts of Wards.

101 to 105. [*Rep. Regulation I of* 1888 [1].]

PART VI.

Miscellaneous.

106. A Revenue-officer may, by a notice in writing, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks already existing; and, if such person fails to comply with his requisition within a period to be specified in such notice, may cause the work to be done, and recover the cost thereof as if it were an arrear of revenue due in respect of such land. Erection and repair of boundary-marks.

[1] The Ajmere Government Wards Regulation, 1888, *infra*.

Additional powers which may be conferred on Revenue-officers.

107. In addition to the powers directly conferred on Revenue-officers by this Regulation, the Chief Commissioner may, subject to any restrictions imposed by the Governor General in Council, invest any Revenue-officer by name or by office for any of the purposes of this Regulation with any of the following powers, to be exercised by him in any part of the territories to which this Regulation extends, and in any specified class of cases :—

(*a*) any of the powers specified in the 4th section of the Land Acquisition Act, 1870 [1]; X of 1870.

(*b*) any power exercised by a Civil Court in the trial of suits;

(*c*) power to refer any matter in dispute, which he is required by this Regulation to decide, to arbitration, whether with or without the consent of the parties; and to delegate to the arbitrators all powers necessary for the investigation and decision of such matter;

(*d*) power to hear appeals from the decisions of arbitrators in matters referred under clause (*c*);

(*e*) power to delegate the exercise of any power or the performance of any duty to a subordinate Revenue-officer;

(*f*) power to review any decision or order given by him which is not open to appeal, or from which, if open to appeal, no appeal has been preferred;

(*g*) power to call for the proceedings of any subordinate officer, and review any order or decision given therein, which is not open to appeal, or from which, if open to appeal, no appeal has been preferred.

Functions of Collector how discharged.

108. Except as may, from time to time, be otherwise directed in the exercise of a power conferred by any enactment for the time being in force, the functions of a Collector under any enactment for the time being in force shall, in any part of the said territories, be discharged by the officer who may be appointed Collector for such part under this Regulation.

Chief Commissioner's power of revision.

109. The Chief Commissioner may call for the record of any proceedings had by any Revenue-officer, and may pass such order thereon consistent with this Regulation as he thinks fit.

Additional power to make rules

110. In addition to the other matters for which the Chief Commissioner is empowered by this Regulation to make rules, he may, from time to time, make rules [2] consistent with this Regulation—

(*a*) for the assessment of the land-revenue;

(*b*) for the investigation of claims to exemption from such assessment or to assignments of land-revenue;

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

[2] For rules under s. 110 in conjunction with s. 73 for the assessment and payment of land-revenue, *see* Gazette of India, 1911, Pt. II, p. 815; *ibid*, 1915, Pt. II, p. 203.

(*c*) for the appointment and removal of circle-headmen, village-headmen and patels;

(*d*) [1] to determine the persons by whom, the time, place and manner at or in which, anything to be done under this Regulation, and for which no express provision is made in these respects, shall be done; and to regulate the procedure of Revenue-officers and arbitrators acting under this Regulation in all cases;

(*e*) for the investigation by the higher Revenue-officers of charges of misconduct preferred against Revenue-officers of lower grade;

(*f*) to determine the fees to be charged for the service of process issued under this Regulation, and to regulate the costs in all proceedings before Revenue-officers;

(*g*) to determine the form of any notice or notification required by this Regulation to be served or published, and the mode in which such notice shall be served or published; and

(*h*) generally to carry out the provisions of this Regulation.

Power to prescribe penalty for breaches of rules.

111. The Chief Commissioner may, in making any rule under this Regulation, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding rigorous or simple imprisonment for a term not exceeding one month, or fine not exceeding two hundred rupees, or both.

Rules how to be published.

112. No rule made by the Chief Commissioner under this Regulation shall take effect until it has been published in the [official][2] Gazette.

Force of rules.

All such rules when so published shall, in so far as they are consistent with this Regulation, have the force of law.

Consolidation and republication of rules.

113. The Chief Commissioner shall, at least once in every three years, cause all such rules still in force to be arranged in some convenient order according to their subject-matter, consolidated, and, where necessary, amended.

[3] The rules so arranged, consolidated and amended, shall be published in the [official][2] Gazette, and, upon such publication, all rules previously made under this Regulation shall cease to be in force.

First appeals.

114. Except as hereinbefore otherwise provided, an appeal shall lie from every order and decision given under any of the provisions hereinbefore contained—

(*a*) when such order or decision is given by any Revenue-officer other than the Commissioner or a Collector—to the Collector or to such other officer as the Chief Commissioner may direct to hear such appeals;

[1] For rules under s. 110 (*d*) as to Patwáris, Girdawars and Registrar Girdawars in Ajmer-Merwara, *see* Gazette of India, 1913, Pt. I, p. 511.

[2] "Official" was substituted for "Rajputana" in ss. 112 and 113 by the Ajmere Amending Regulation, 1893 (IX of 1893), *infra*.

[3] For consolidated set of rules under s. 113, *see* Gazette of India, 1914, Pt. II, p. 1235.

(*b*) when such order or decision is given by [a Collector other than the Commissioner] [1]—to the Commissioner;

(*c*) when such order or decision is given by the Commissioner—to the Chief Commissioner.

Second appeals.

115. If in any case the order or decision given in appeal under clause (*a*) or clause (*b*) of section 114 reverses or modifies the original order or decision on a point material to the merits of the case, and is not hereinbefore declared to be final, the Commissioner or Chief Commissioner, as the case may be, may receive a second appeal if on perusal of the grounds of appeal, and of copies of the orders or decisions already given, a further consideration of the case appears to him to be requisite for the ends of justice.

Limitation of appeals.

116. The period of limitation for an appeal under section 114 or section 115, shall begin to run from the date of the order or decision appealed against, and shall be as follows, that is to say :—

(*a*) when such appeal lies to the Commissioner or Chief Commissioner, sixty days;

(*b*) in other cases, thirty days.

In other respects the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.[2] XV of 187

Order in first appeal, when confirming original decision, final.

117. Every order or decision given in first appeal, confirming the original order or decision, shall, subject to the powers of review and revision conferred under section 107 and by section 109, be final.

No certificates for Revenue-agents to be granted.

118. Notwithstanding anything contained in the Pleaders, Muktars, and Revenue Agents Act, 1865,[3] no certificate authorizing any person to practise as a Revenue-agent shall be granted under that Act after the passing of this Regulation. XX of 186

Proceedings under Regulation not to be impeached.

119. Except as hereinbefore expressly provided,—

(*a*) everything done, ordered or decided by the Governor General in Council, Chief Commissioner or a Revenue-officer under this Regulation, shall be deemed to have been legally and rightly done, ordered or decided;

Limitation of jurisdiction of Civil Courts.

(*b*) no Civil Court shall entertain any suit or application instituted or presented with a view to obtaining any order or decision which the Governor General in Council, the Chief Commissioner or a Revenue-officer is under this Regulation empowered to make or pronounce.

[1] Substituted for "the Collector" by Reg. II of 1914, *infra*.
[2] *See* now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.
[3] *See* now the Legal Practitioners Act, 1879 (XVIII of 1879), General Acts, Vol. III.

THE AJMERE LAWS REGULATION, 1877.

[REG. III OF 1877.]

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY AND GENERAL.

SECTIONS.

1. Short title.
 Local extent.
 Commencement.
2. Repeal of enactments.
 Saving.
3. Regulations to be deemed to be in force.
4. Rules of decision in cases of certain classes.
5. Rule in cases not expressly provided for.

CHAPTER II.

PRE-EMPTION.

6. Right of pre-emption.
7. Presumption as to its existence.
8. Its existence in towns to be proved.
9. Devolution of right when property to be sold or foreclosed is proprietary tenure.
10. Notice to pre-emptors.
11. Loss of right of pre-emption.
12. Right of pre-emptor on foreclosure.
13. Suit to enforce right of pre-emption.
14. Decree to fix time for payment.
15. Effect of non-payment of purchase-money.

CHAPTER III.

CRIMINAL LAW AND POLICE.

16. Villagers to aid in tracking.

SECTIONS.

17. Duty of complainant and his trackers.
18. Duty of other trackers.
19. Procedure when tracks are lost.
20. Power to fine villager for breach of track-law.
21. Appeal from order under section 20.
22. Award of compensation for injury.
 Reward to tracker.
23. Responsibility of landholders and farmers.
24. Villagers to aid in apprehending offenders.
25. Liabilities of villager.
26. Lambardar to keep register of new cattle brought to village.
27. Recovery of money paid under award of Court of Vakils.
28. Recovery of fines, etc., payable under chapter.
29. Indian Penal Code to apply to certain offences.
30. Police may apprehend members of armed band.
31. Power to invest Istimrardar, etc., with powers of Police-officer.

CHAPTER IV.

MISCELLANEOUS.

32. Claims under contracts of dower.
33. Amount of interest to be decreed.
34. Slaughter of animals and sale of beef.
35. Sale of flesh or shooting, etc., within limits of any religious place.
36. [*Repealed.*]
37. [*Repealed.*]
38. Recovery of revenue other than land-revenue.
39. [*Repealed.*]
40. Additional power to make rules.
41. Penalty for breach of rules.
42. Rules to be sanctioned and published.
 Force of rules.

FIRST SCHEDULE.—ACTS REPEALED.

SECOND SCHEDULE.—REGULATIONS IN FORCE.

REGULATION NO. III OF 1877.

[THE AJMERE LAWS REGULATION, 1877.]

A Regulation to declare and amend the law in force in Ajmere and Merwara.

(*Published in the Gazette of India, 1877, Part I, p. 636, and in the Rajputana Official Gazette, 1878, p. 45.*)

WHEREAS it is expedient to declare and amend certain portions of the law in force in Ajmere and Merwara ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY AND GENERAL.

1. This Regulation may be called the Ajmere Laws Regulation, 1877. Short title.

It extends to the territories now under the administration of the Chief Commissioner of Ajmere, and to which the provisions of the 33rd of Victoria,[1] cap. 3, section I, have been applied ; Local extent.

And it shall come into operation on such date [2] as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by a notification in the Gazette of India, direct. Commencement.

2. On and from such date the following shall be repealed, that is to say :— Repeal of enactments.

(*a*) all Bengal Regulations except the Regulations referred to in section 3 of this Regulation ;

(*b*) all Acts of the Governor General in Council which do not expressly, or by necessary implication, extend to the said territories or any part thereof, and may not prior to the said date, and in exercise of a power conferred by an Act of the Governor General in Council, have been extended thereto or declared to be in force therein;

(*c*) all rules, regulations and enactments, not being Statutes, Bengal Regulations, Acts of the Governor General in Council, Regulations enacted under the 33rd of Victoria,[1] cap. 3, section 1, or rules or regulations made in exercise of a power conferred by any Statute or by any such Regulation or Act ;

(*d*) the enactments specified in the first schedule hereto annexed, to the extent mentioned in the third column thereof.

But nothing contained in this section shall affect anything done, or any offence committed or any fines or penalty incurred, or any proceedings commenced, before the said date. Saving.

[1] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. See footnote to heading of Part III of this Code.

[2] The 1st January, 1878, see Gazette of India, 1877, Part I, p. 712.

Regulations to be deemed to be in force.

3. The Regulations specified in the second schedule hereto annexed shall be deemed to be in force throughout the said territories to the extent mentioned in the third column of the said schedule.

But the powers and functions incident to the operation of the said Regulations, so far as such powers and functions are referred to in the fourth column of the said schedule, shall be exercised and discharged by the authority mentioned in that column.

Rules of decision in cases of certain classes.

4. In questions regarding succession, special property of females, betrothal, marriage dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Regulation:

Provided that, when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

Rule in cases not expressly provided for.

5. In cases not provided for by section 4 of this Regulation, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

CHAPTER II.

PRE-EMPTION.

Right of pre-emption.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire in the cases hereinafter specified, immoveable property in preference to all other persons.

Presumption as to its existence.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed—

(*a*) to exist in all village-communities, however constituted; and

(*b*) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

Its existence in towns to be proved.

8. The right of pre-emption shall not be presumed to exist in any town or any sub-division thereof, but may be shown to exist therein, or in any sub-division thereof, and to be exercisable therein by such persons and under circumstances as the local custom prescribes.

9. If the property to be sold or foreclosed is a proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,— Devolution of right when property to be sold or foreclosed is *proprietary* tenure.

1st, to co-sharers of such tenure, in order of their relationship to the vendor or mortgagor;

2ndly, to co-sharers of the whole mahal in the same order; and

3rdly, to any member of the village-community.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

10. When any person proposes to sell any property or when he forecloses a mortgage upon any property in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be. Notice to pre-emptors.

Such notice shall be given through the Court or some one of the Courts (where there is more than one such Court) in which, under the law for the time being in force, a suit to recover possession of the property might be instituted, and shall be deemed sufficiently given if it be stuck up on the *chaupal* or other public place of the village or town in which the property is situate.

11. Any person having a right of pre-emption in respect of any property proposed to be sold shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell. Loss of right of pre-emption.

12. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section 10, pay or tender to the mortgagee or his successor in title the amount specified in such notice, and shall thereupon acquire a right to purchase the property. Right of pre-emptor on foreclosure.

On completion of the purchase, the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

13. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds, namely:— Suit to enforce right of pre-emption.

(*a*) that no due notice was given as required by section 10 of this Regulation;

(*b*) that tender was made under section 11 or section 12 of this Regulation, and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

Decree to fix time for payment.

14. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Effect of non-payment of purchase-money.

15. If such purchase-money or amount is not paid into the Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or mortgage, lose his right of pre-emption over the property to which the decree relates.

CHAPTER III.

Criminal Law and Police.

Villagers to aid in tracking.

16. When an offence has been, or may reasonably be supposed to have been, committed, whether within or beyond British territory, and whether by British subjects or others, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of any village, the residents of such village shall render every assistance in carrying on such tracks.

Duty of complainant and his trackers;

17. The trackers of the village or locality where the offence was committed and the sufferers from the same shall continue with the trail, until the tracks have been acknowledged by some village through the lands of which they pass.

of other trackers.

18. The trackers of each village within the lands of which the tracks are found shall accompany the trail until the tracks have been acknowledged by some village further on in which the said tracks are found.

Procedure when tracks are lost.

19. When the tracks cease to be discernible, the trackers then in charge shall proceed at once to the nearest police-station, and make a report of the case.

Power to fine villager for

20. If the inhabitants of any village fail to give forthwith the assistance required by section 16 of this Regulation, or if they do not afford full oppor-

tunity for search in their houses for the offenders or property, or if it appears that they or any of them were conniving at the offence, or at the escape of the offenders, or at the removal or concealment of the property, and the offenders or the property cannot be traced beyond such village, the [1][District Magistrate] may inflict a fine upon such village not exceeding five hundred rupees, except in the case of property exceeding five hundred rupees in amount or value being stolen, when the fine may be of any amount not exceeding the value of such property. Breach of track-law.

21. An appeal shall lie to the [2][Chief Commissioner] against every order imposing a fine under section 20 of this Regulation. Appeal from order under section 20.

22. The [1][District Magistrate] may direct that the fine imposed under section 20 of this Regulation, or any portion of such fine, be awarded to any person injured by the offence in compensation for such injury. Award of compensation for injury.

Where stolen property is recovered through the agency of a tracker, such property shall not be restored to the owner till he has paid to the tracker such reward not exceeding one-quarter of the value of the property recovered, as the [1][District Magistrate] may direct. Reward to tracker.

23. Landholders and farmers are responsible for maintaining the peace and for apprehending all disturbers of it in their respective estates and farms, and they shall do all in their power to prevent the commission, within their respective estates and farms, of dacoity, robbery, murder, housebreaking, theft and other such offences; and on the occurrence within such estates and farms of any such offence, shall do their utmost to apprehend the offenders, and shall pursue them if they have fled. Responsibility of landholders and farmers.

24. Inhabitants of villages through or near which the pursuit may lie shall join in the pursuit and afford all possible assistance towards the apprehension of the offender and the recovery of the stolen property (if any). Villagers to aid in apprehending offenders.

25. The inhabitants of a village shall not, as a general rule, be bound to make good to any person the loss sustained by him by robbery, dacoity or theft committed within the limits of such village; but, if the inhabitants of such village be found to have neglected any of the rules laid down in section 23 of this Regulation, they shall be liable collectively to pay to such person such sum, not exceeding the amount of such loss, as the [1][District Magistrate] may fix with reference to the circumstances of the case, the degree of negligence, and the capabilities of such inhabitants to pay. Liabilities of villager.

26. The lambardar of each village, or, where there are several lambardars, such one of them as the [1][District Magistrate] may direct, shall keep a register in which he shall enter a description of all new cattle brought to the village in such form as the Chief Commissioner may, by rule,[3] prescribe. Lambardar to keep register of new cattle brought to village.

[1] Substituted for "Magistrate of the district" by Regulation II of 1914, *infra*.

[2] Substituted for "Commissioner" by *ibid*.

[3] For notification prescribing forms of registers to be kept by Lambardars, *see* Ajmer Local Rules and Orders.

Every person bringing new cattle to the village shall, within twenty-four hours of their arrival there, unless prevented by some circumstance beyond his control, take them before the said lambardar for registration.

Recovery of money paid under award of Court of Vakils.

27. When an award is made by the Rajputana Court of Vakils against the British Government on account of fine, blood-money or compensation, or otherwise, the [1][District Magistrate] may, * * * * * * * * *[2] recover the said amount or any part thereof from any person convicted, whether by the said Court or by a Criminal Court in British India, of the offence on account of which such award was made, or from any village or person liable to fine or to the payment of compensation for such offence under section 20 or section 25 of this Regulation.

Recovery of fines, etc., payable under chapter.

28. All sums payable under this Chapter may be recovered by the [1][District Magistrate] in the manner prescribed for the realization of fines by the Code of Criminal Procedure.[3]

Indian Penal Code to apply to certain offences.

29. The provisions of the Indian Penal Code [4] and the Acts amending it shall apply to every offence committed before the first day of January, 1862, in any part of the territory to which this Regulation extends, and which, at the time such offence was committed, was part of British India. XLV of 1860.

Police may apprehend members of armed band.

30. The police may apprehend and keep in custody, pending orders from the Chief Commissioner, any person who, there may be reason to believe, belongs to a band of armed men united together for the purpose of committing an offence, whether such offence is to be committed in British territory or elsewhere.

Power to invest Istimrardar, etc., with powers of Police officer.

31. The Chief Commissioner may invest any Istimrardar or other person with any or all the powers which may be exercised by a Police-officer under any Act for the time being in force in the territories to which this Regulation extends, and may prescribe the limits within which such powers may be exercised.

CHAPTER IV.

MISCELLANEOUS.

Claims under contracts of dower.

32. When any claim is made under a contract of dower entered into by a Muhammadan husband, whether such claim is made during his life-time or after his death, and whether it is a claim made by a plaintiff, or a claim by way of set-off or lien made by a defendant, the Court shall allow such amount only as appears to be reasonable with reference to the means of such husband, anything to the contrary in such contract notwithstanding.

Amount of interest to be decreed.

33. The amount of interest which may be decreed in any suit instituted in any Civil Court for the period prior to the date of the suit shall not exceed

[1] Substituted for "Magistrate of the district" by Regulation II of 1914, *infra*.
[2] Words repealed by Regulation II of 1914, *infra*, are omitted.
[3] See now Act V of 1898 in General Acts, Vol. V.
[4] General Acts, Vol. I.

the amount of the principal sum of money received by the defendant from the plaintiff or the persons whom the plaintiff represents.

34. The Chief Commissioner may, from time to time, make rules regulating and restricting the slaughter of animals and the sale of beef or other meat. Slaughter of animals and sale of beef.

In case of emergency the [1][District Magistrate] subject to the control of the [1][Chief Commissioner], may issue orders of a similar nature, to remain in force for any period he may fix not exceeding one month.

35. Where the sale of flesh, or shooting, or killing animals is, at the time this Regulation comes into force, prohibited within the limits of any religious or shooting, place by order of the Magistrate of the district [2]* * * * * * * such limits of any prohibition shall continue unless or until otherwise ordered by the Chief Commissioner. Sale of flesh etc., within religious place.

36. [*Manufacture of salt.*] *Rep. Act XII of 1882.*

37 [*Confiscation of salt manufactured without license*] *Rep. Act XII of 1882.*

38. The Chief Commissioner may * * * * * * * [3] invest any officer by name or office with all or any of the powers conferred by the Ajmere Land and Revenue Regulation, 1877,[4] for the recovery of land-revenue or for the recovery of any other revenue due to the Government. Recovery of revenue other than land-revenue.

Reg. II of 1877.

39. [*Taxation in cantonments.*] *Rep. Act XIII of 1889.*

40. In addition to the other matters for which the Chief Commissioner is empowered to make rules by this Regulation, he may, from time to time, make rules as to the following, that is to say:— Additional power to make rules.

(*a*) the maintenance of watch and ward, and the establishment of a proper system of conservancy and sanitation at fairs [5] and other large public assemblies;

(*b*) the imposition of taxes for the purposes mentioned in clause (*a*) of this section on persons holding or joining any of the assemblies therein referred to;

(*c*) the custody of judicial records, civil and criminal * * * * [6];

(*d*) the appointment, duties, punishment, suspension and dismissal of all ministerial officers[7];

[8][(*e*) the registration of cattle.]

41. The Chief Commissioner may, in making any rule under this Regulation, attach to the breach of it, in addition to any other consequences that Penalty for breach of rules.

[1] Substituted by Regulation II of 1914, *infra*.

[2] The words "with the sanction of the Commissioner" were repealed by *ibid*.

[3] The words "with the previous sanction of the Governor General in Council" were repealed by *ibid*.

[4] *supra*.

[5] For rules as to the levy of a shop tax at the Pushkar fair, *see* Ajmer Local Rules and Orders.

[6] The words "and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep" were repealed by the Destruction of Records Act, 1879 (III of 1879), General Acts, Vol. III.

[7] For rules under s. 40 (*d*) (*1*) for the appointment, punishment, etc., of ministerial officers, and (*2*) for the guidance of Nazirs, Naib Nazirs and Ahlmads, *see* Ajmer Local Rules and Orders. For rules as to non gazetted officers *see* Gazette of India, 1914, Pt. II, p. 1742.

[8] Inserted by Regulation II of 1914, *infra*.

would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding rigorous or simple imprisonment for a month or a fine of two hundred rupees, or both.

Rules to be sanctioned and published.

42. No rule made by the Chief Commissioner under this Regulation shall take effect until it has been * * * * * *[1] published in the Gazette of India.

Force of rules.

All such rules when so * * * * * * *[1] published shall, in so far as they are consistent with this Regulation, have the force of law.

FIRST SCHEDULE.

ACTS REPEALED.

[*See section 2, clause (d).*]

Number and year of enactment.	Title or abbreviated title.	Extent of repeal.
Act I of 1847. .	An Act for the establishment and maintenance of boundary-marks in the North-Western Provinces.	So much as has not been repealed.
Act XIX of 1863 .	Partition of estates	So much as has not been repealed.

SECOND SCHEDULE.[2]

REGULATIONS IN FORCE.

(*See section 3.*)

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
[2] * *	* *	* * * *	* *
[3] V of 1799 .	Estates of intestates.	Sections 4, 5 and 6 . .	The functions of the Court of the Sadr Diwani Adalat shall be discharged by the Chief Commissioner.

[1] Words repealed by Reg. II of 1914 are omitted.

[2] This Schedule is repealed, so far as it relates to the following Bengal Regulations, by the enactments noted against each. The references to those Regulations have therefore been omitted :—

Ben. Reg. I of 1798	Reg. IX of 1893.
XVII of 1806	
XX of 1810	Act XIII of 1889, General Acts, Vol. V.
V of 1817	Reg. IX of 1893.
VI of 1819	
XX of 1825	Act X of 1882 (since rep. Act V of 1898).

[3] *Supra*, Part I.

SECOND SCHEDULE—*contd.*

REGULATIONS IN FORCE—*contd.*

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
[1]X of 1804	Punishment of State offences by courts-martial.	So much as has not been repealed	
[1]XI of 1806	Passage of troops	Sections 2 to 6 and section 8, with the exception of such part as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers * * * * * * * * *	The powers of the [2] Governor General in Council and of the Board of Revenue shall be exercised by the Chief Commissioner.
* * *	* *		* *
[1]XIX of 1810	Endowments, public buildings and nazul property	So much as is not repealed by Act No XX of 1863.	The functions of the Board of Revenue shall be discharged by the Chief Commissioner.
[1]XI of 1812	Foreign Immigrants.	So much as has not been repealed	[3] The powers of the Nizamat Adalat shall be exercised by the Chief Commissioner
* * *	* *	* * * *	* *
[1]III of 1818	State Prisoners	So much as has not been repealed.	
* * *	* *	* * * *	* *

[1] *Supra*, Part I.

[2] The words and figures "and with the exception, in section VIII, of the words and figures "under the rules prescribed by Reg. V of 1804" were repealed by Regulation IX of 1893, *infra*.

[3] The words "Local Government in Council" in Ben. Reg. XI of 1806, *see supra*.

[4] *See* first foot-note to this Schedule.

[5] The clause in Ben. Reg. XI of 1812 conferring powers on the Nizamat Adalat has since been altered so as to confer them on the Local Government, *see* s. 3 of that Regulation, *supra*.

SECOND SCHEDULE—*concld.*

REGULATIONS IN FORCE—*concld.*

Number and year of Regulation.	Subject.	Extent of operation.	Powers of duties how to be exercised or performed.
1	2	3	4
[1]VI of 1825 .	Supply of troops on the march.	The whole	The powers of the Board of Revenue shall be exercised by the Chief Commissioner.
* *	* *	* * * *	* *[2]
[1]V of 1827 .	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses 5 and 6, section 16, Regulation III, 1803."	The powers of the Board of Revenue shall be exercised by the Chief Commissioner.

THE AJMERE MUNICIPALITIES REGULATION, 1886.

[REG. V OF 1886.]

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, local extent and commencement.
2. Definitions.
3. Notification of intention to apply Regulation.
4. Application of Regulation.

[1] *Supra*, Part I.
[2] *See* first foot-note to this Schedule.

SECTIONS.

5. Special rule as to application of Regulation to towns to which Act XV of 1873 applies.

CHAPTER II.

ORGANIZATION OF MUNICIPAL COMMITTEES.

Constitution of Committees.

6. Committee to consist of elected and appointed members.
7. District Magistrate to convene meeting to determine system of representation and election.
8. Persons to be invited to meeting.
9. Matters to be considered at the meeting.
10. Power to Chief Commissioner to make rules regarding representation and election.
11. Term of office of member of committee.
12. Resignation of member.
13. Removal of member.
14. Filling of casual vacancies.
15. Incorporation of committee.
16. Time for committees coming into existence.
17. Consequences of establishment of committee where municipal committee exists.

Chairman and Vice-Chairman.

18. Election or appointment of chairman.
19. Election of vice-chairman.
20. Term of office of chairman and vice-chairman.
21. Resignation of chairman or vice-chairman.
22. Removal of chairman or vice-chairman.
23. Casual vacancies in office of chairman or vice-chairman.
24. Chairman to become member if not already member.

Notification of Elections, Appointments and Vacancies.

25. Notification of elections, appointments and vacancies.

Joint Committees.

26. Joint committees.

Conduct of Business.

27. Time for holding meetings.

SECTIONS.

28. Ordinary and special meetings.
29. Quorum.
30. Chairman of meeting.
31. Vote of majority decisive.
32. Certain officers entitled to attend and speak.
33. Resolutions to be recorded and published.
34. Power to make rules as to meetings and proceedings.

Officers and Servants.

35. Appointment of secretary.
36. Employment of other officers and servants.
37. Pensions of Government officials serving committees.
38. Pensions of others.

Contracts.

39. Authority to contract.
40. Mode of executing contracts.

CHAPTER III.

TAXATION.

Taxation.

41. Taxes which may be imposed.
42. Scavenging-tax.
43. Water-tax.
44. Procedure in imposing taxes.
45. Power to abolish or reduce taxes.
46. Power to exempt from taxation.
47. Power for Chief Commissioner to suspend levy of tax.
48. Taxes not invalid for defect of form.
49. Taxes when payable.
50. Receipts to be given.
51. Appeals against taxation.
52. Limitation for appeals.
53. Taxation not to be questioned except under this Regulation.
54. Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Regulation.

Taxes on Immoveable Property.

55. Preparation of assessment-list.
56. Publication of notice of assessment.

SECTIONS.

57. Public notice of time fixed for revising assessment-list.
58. Settlement of list.
59. Further amendments of assessment-list.
60. New list need not be prepared every year.
61. Remission of tax on unoccupied immoveable property.
62. Taxes on immoveable property by whom payable.
63. Recovery of taxes payable by owner.
64. Power to search where octroi is leviable.
65. Power to examine article liable to octroi.
66. Presentation of bill for octroi.
67. Recovery of octroi and tolls.

CHAPTER IV.

MUNICIPAL FUND AND PROPERTY.

68. Constitution of municipal fund
69. Application of fund.
70. Custody of municipal funds.
71. Investment of same.
72. Management of public institutions.

CHAPTER V.

MUNICIPAL POLICE.

73—77. [Rep.]

CHAPTER VI.

POWER FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

78. Power to acquire land for building-sites adjoining new streets.
79. Power to close streets.
80. Power to permit temporary occupation of streets, etc.
81. Power to attach brackets for lamps.
82. Names of streets and numbers of buildings.

SECTIONS.

83. Roofs and external walls not to be made of inflammable materials.
84. Power to regulate line of buildings.
85. Notice of new buildings.
86. Removal of projections and obstructions.

Bathing and Washing Places.

87. Bathing and washing places.

Deposit of Offensive Matter and Slaughter Places.

88. Removal and deposit of offensive matter.
89. Places for slaughter of animals.
90. Powers in respect of burial and burning places.
91. Removal of corpses.

Inflammable Materials.

92. Inflammable materials.

Powers of Entry and Inspection.

93. Inspection of drains, privies and cesspools.
94. Power to enter and inspect buildings, etc.
95. Other powers of entry on buildings or land.
96. Power to enter for discovery of vehicles or animals liable to taxation.
97. Power to inspect places for sale of food or drink, etc., and to seize unwholesome articles exposed for sale.
98. Power of entry for purpose of scavenging.
99. Precautions to be observed in entering dwelling.

Water-pipes, Privies and Drains.

100. Troughs and pipes for rain-water.
101. Provision of privies, etc.
102. Repair and closing of drains, privies and cesspools.
103. Unauthorized buildings over drains, etc.
104. Removal of latrines, etc., near any source of water-supply.
105. Power to require drainage, etc., of unwholesome tanks, etc.

Dangerous Buildings and Places.

106. Power to require buildings, wells, tanks, etc., to be secured.
107. Buildings, etc., in ruinous or dangerous state.

Buildings and Grounds in Unsanitary Condition.

SECTIONS.

108. Power to require owner to clear away noxious vegetation.
109. Power to trim hedges and trees bordering on streets.
110. Power to have building or land cleansed.
111. Power in respect of building unfit for habitation.
112. Power to require untenanted buildings becoming a nuisance to be secured or enclosed.
113. Cultivation, use of manure or irrigation injurious to health after prohibition.

Offensive and Dangerous Trades.

114. Regulation of offensive and dangerous trades.
115. Power to prohibit such trades.

Power to make Rules.

116. Power of committee to make rules.

Supplemental.

117. Execution of acts required to be done by any notice.
118. Recovery of costs of execution.
119. Compensation out of municipal fund.
120. Appeals against certain orders of committee.

CHAPTER VII

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

121. Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.
122. Discharging sewage.
123. Non-removal of filth, etc.
124. Making or altering drains without authority.
125. Penalty for making or keeping latrines, etc., near any source of water-supply.
126. Keeping animals so as to be injurious to health.
127. Feeding animals on deleterious substances.
128. Driving vehicles without proper lights.
129. Discharging firearms, etc.
130. Control of elephants and camels.
131. Taking elephants along streets.
132. Suffering dogs to be at large.

SECTIONS.

133. Altering, obstructing or encroaching upon streets, etc.
134. Quarrying, blasting, cutting timber or building.
135. Picketing animals and collecting carts.
136. Carrying corpses by prohibited routes or so as to cause annoyance.
137. Destroying direction-posts, lamp-posts, etc.
138. Penalty for disobedience to orders of committee under Chapter VI.
139. Prosecution to be suspended in certain cases.

CHAPTER VIII.

CONTROL.

140. Control by District Magistrate.
141. Power to suspend action by committee or joint committee.
142. Extraordinary powers of District Magistrate in case of emergency.
143. Powers of Chief Commissioner in case of default of committee.
144. Power of Chief Commissioner to supersede committee in case of incompetency, persistent default or abuse of powers.
145. Power of Chief Commissioner to frame forms and make rules.

CHAPTER IX.

SUPPLEMENTAL.

146. Penalty on member, officer or servant of committee being interested in contract made with committee.
147. Suits against committee and its officers.
148. Liability of members for loss, waste or misapplication.
149. Acquisition of land under Act X of 1870.
150. Procedure for making rules.
151. Prosecutions.
152. Saving of prosecutions under other laws.
153. Recovery of taxes, etc.
154. Notification of intention to alter limits of municipality.
155. Alteration of limits of municipality.
156. Effect of exclusion of local area from municipality.
157. Effect of including local area in municipality.
158. Powers exerciseable from time to time.
159. Saving of Act XI of 1879.
160. Member of committee to be municipal commissioner.
161. Vacancies and irregularities not to invalidate proceedings.

CHAPTER X.

EXCEPTIONAL PROVISIONS.

SECTIONS.
162. Power to except municipalities from operation of provisions of Regulation regarding *election*.
163. Power to withdraw municipal area altogether from operation of Regulation.

REGULATION NO. V OF 1886.

[THE AJMERE MUNICIPALITIES REGULATION, 1886.]

A Regulation to make better provision for the Organization and Administration of Municipalities in Ajmere and Merwara.

(*Published in the Gazette of India, 1886, Part I, p. 581.*)

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in Ajmere and Merwara; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) *This* Regulation may be called the Ajmere Municipalities Regulation, 1886. Short title, local extent and commencement.

(2) It extends to the territories for the time being administered by the Chief Commissioner of Ajmere; and

(3) It shall come into force on the first day of November, 1886.

(*4*) [*Rep. Reg. IX of 1893.*]

2. *In this Regulation*, unless there is something repugnant in the subject or context,— Definitions.

(*1*) "committee" means a municipal committee constituted under this Regulation:

(2) "municipality" means a local area to which this Regulation has been applied under section 4 or section 5:

(3) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service:

(*4*) "inhabitant" includes any person ordinarily residing or carrying on business or owning or occupying immoveable property in a municipality or in a local area to which the Chief Commissioner has by notification declared his intention to apply this Regulation:

(5) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway :

(6) "owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land or building were let to a tenant :

(7) "notification" means a notification published by authority of the Chief Commissioner in the official Gazette :

(8) "notified" means published as aforesaid : and

(9) "prescribed" means prescribed by rules made by the Chief Commissioner under this Regulation.

Notification of intention to apply Regulation.

3. (1) The Chief Commissioner may, by notification and in such other manner as he may from time to time determine, declare his intention to apply this Regulation to any town or to any group of towns in the immediate neighbourhood of one another.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building, land or water in the vicinity of any such town :

Provided that it shall not, without the previous consent of the Governor General in Council, so include any part of a military cantonment.

Application of Regulation.

4. (1) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Regulation, submit his objection in writing to the Chief Commissioner within six weeks from the publication of the notification, and the Chief Commissioner shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired and the Chief Commissioner has considered the objections (if any) which have been submitted under sub-section (1), the Chief Commissioner may, by notification, apply this Regulation to the local area.

Special rule as to application of Regulation to towns to which Act XV of 1873 applies.

5. The Chief Commissioner may, by notification, apply[1] this Regulation to any local area which is a municipality established under the [2] North-Western Provinces and Oudh Municipalities Act, 1873. * * * * * *[3]

[1] Reg. V of 1886 has by notifications Nos. 1406—702 and 1408—702, dated 22nd December, 1886 (*see* Gazette of India, 1887, Pt. II, p. 15), been applied under s. 5 to each municipality in Ajmer-Merwara, *viz.*, the municipalities of Ajmer, Beawar and Kekri. Their boundaries were fixed by notification under Act XV of 1873, *see* Ajmer Local Rules and Orders.

[2] Act XV of 1873 ceased to apply in Ajmer-Merwara on a Committee under this Regulation coming into existence, *see* s. 17 (*a*), *infra*.

[3] Words directing the application of this Regulation to every local area which was a municipality established under Act XV of 1873 within three months of the date on which the Regulation came into force, unless the Regulation had been previously applied to some local area in which the area was comprised or unless the Chief Commissioner had declared that the Regulation was unsuited to that area, were repealed by Regulation IX of 1893, *infra*.

CHAPTER II.

ORGANIZATION OF MUNICIPAL COMMITTEES.

Constitution of Committees.

Committee to consist of elected and appointed members.

6. There shall be established for each municipality a municipal committee having authority over that municipality and consisting of –

(*a*) so many elected members as may be determined in manner prescribed representing the whole municipality or wards of the municipality; and

(*b*) such person or persons (if any), not exceeding in number one-fourth of the committee as the Chief Commissioner may, subject to the rules made under this Regulation, appoint in this behalf.

District Magistrate to convene meeting to determine system of representation and election.

7. (*1*) The [1][District Magistrate] shall, within one month from the date on which this Regulation has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to meet at a time and place specified in the notices for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Chief Commissioner may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(*2*) The Chief Commissioner may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

Persons to be invited to meeting.

8. Notices under section 7 shall be issued to the following persons, namely :—

(*a*) all Honorary Magistrates having jurisdiction within the limits of the municipality;

(*b*) [*Rep. by Reg. IX of 1893.*]

(*c*) any leading residents of the municipality not included under [2][clause (*a*)] who in the opinion of the District Magistrate should be allowed to take part in the discussion.

Matters to be considered at the meeting.

9. The persons who meet in compliance with the notice issued under section 7 shall consider, and shall, within the time limited under that section, submit through the District Magistrate to the Chief Commissioner proposals regarding the following matters, namely :—

(*a*) the treatment of the municipality as a whole for the purposes of representation, or the division of the municipality into wards:

(*b*) the number of representatives proper for the municipality or for each ward;

[1] Substituted by Reg. II of 1914, *infra*.

[2] This reference was substituted for the reference " clauses (*a*) and (*b*) " by Reg. IX of 1893, *infra*.

(*d*) every right and liability belonging to or incurred by the old committee may be enforced by and against the new committee in like manner as it might have been enforced by and against the old committee if this Regulation had not been made;

(*e*) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee, and shall not be dismissed from that employment without the sanction of the Chief Commissioner; and

(*f*) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

(2) When a committee comes into existence under section 16 for a municipality constituted under this Regulation, and that municipality comprises within its limits a local area in which Act XX of 1856 [1] (*An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

Chairman and Vice-Chairman.

Election or appointment of chairman.

18. A committee shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person qualified for election as a member, and the member or other person so elected shall, if the election is approved by the Chief Commissioner, but not otherwise, become chairman of the committee:

Provided that—

(*a*) if the office of chairman remains vacant for three months from the date of the first meeting of the committee, or, in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Chief Commissioner may in his discretion appoint such person as he thinks fit by name or by virtue of office to be chairman; and

(*b*) in such municipalities as the Chief Commissioner may from time to time, by notification, [2] exempt from the operation of this section, the Chief Commissioner may from time to time appoint such person as he thinks fit by name or by virtue of office to be chairman.

[1] The Bengal Chaukidari Act, 1856, *supra*.

[2] For notification under s. 18 (*b*) exempting the Ajmer municipality, *see* Gazette of India, 1908, Pt. II, p. 1286.

19. In every municipality the committee shall from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen. Election of vice-chairman.

20. (*1*) The term of office of a member of the committee elected to be chairman shall be the residue of his term of office as member. Term of office of chairman and vice-chairman.

(*2*) The term of office of any other person elected to be chairman, or of a chairman appointed by the Chief Commissioner, shall be such term, not exceeding three years, as the Chief Commissioner may by rule prescribe.

(*3*) The term of office of a vice-chairman shall be one year:

Provided that, when at the time of his election as vice-chairman the residue of his term of office as member of the committee is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(*4*) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

21. (*1*) A chairman of a committee may resign by notifying in writing his intention to do so to the Chief Commissioner, and, on his resignation being accepted by the Chief Commissioner, he shall be deemed to have vacated his office. Resignation of chairman or vice-chairman.

(*2*) A vice-chairman of a committee may resign by notifying in writing his intention to do so to the committee, and, on his resignation being accepted by the committee, he shall be deemed to have vacated his office.

22. The Chief Commissioner may remove any chairman or vice-chairman of a committee from his office as such chairman or vice-chairman if he refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Chief Commissioner, a defect of character which unfits him to be chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the committee. Removal of chairman or vice-chairman.

23. (*1*) If an elected chairman or vice-chairman dies or resigns his office or is removed, a new chairman or vice-chairman shall be elected or appointed in manner provided by section 18 or section 19, as the case may be. Casual vacancies in office of chairman or vice-chairman.

(*2*) If a chairman appointed by the Chief Commissioner dies, resigns his office or is removed, the Chief Commissioner shall appoint another chairman.

(*3*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

Provided that, if a person so elected is a member of the committee at the time of his election, he shall go out of office on ceasing to be a member.

(*4*) A person going out of office under sub-section (3) shall, if otherwise qualified, be again eligible for election or appointment.

24. When a person not already a member of the committee is elected or appointed chairman, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his election or Chairman to become member, if not already member.

appointment, and shall continue to be a member so long as he holds office as chairman.

Notification of Elections, Appointments and Vacancies.

Notification of elections, appointments and vacancies.

25. Every election and appointment of a member or chairman of a committee, and every vacancy in the office of a member or chairman, shall be notified.

Joint Committees.

Joint committees.

26. (*1*) A committee may, from time to time, concur with any other municipal committee, or with a district board, or with a cantonment authority, or with more than one such committee, board or authority, in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(*2*) If any difference of opinion arises between committees, boards or authorities acting under this section, the decision thereon of the Chief Commissioner shall be final.

Conduct of Business.

Time for holding meetings.

27. (*1*) A committee shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 34.

(*2*) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall upon a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

Ordinary and special meetings.

28. (*1*) A meeting of a committee shall be either ordinary or special.

(*2*) Any business may be transacted at an ordinary meeting unless it is required by this Regulation or the rules made under this Regulation to be transacted at a special meeting.

Quorum.

29. (*1*) The quorum necessary for the transaction of business at a special meeting of a committee shall be two-thirds of the whole committee.

(*2*) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by the rules made under section 34:

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before

the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Chairman of meeting.

30. (*1*) At every meeting of a committee the chairman, if present, shall preside.

(*2*) If, when any meeting is held the office of chairman is vacant, or the chairman is absent from the meeting and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(*3*) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

31. (*1*) Except as otherwise provided by this Regulation, or by any rule made by the Chief Commissioner under this Regulation, all questions which may come before any meeting of a committee shall be decided by a majority of the votes of the members present.

(*2*) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

32. The Civil Surgeon of the district, the Executive Engineer of the division and the Inspector of Schools of the circle shall be entitled to attend any meeting of the committee, and to address the committee on any matter affecting respectively sanitation, public works and public instruction.

Resolutions to be recorded and published.

33. (*1*) Every resolution passed by a committee at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or the next ensuing meeting, and shall be published in such manner as the Chief Commissioner may direct.

(*2*) A copy of every resolution passed by a committee at a meeting shall within ten days from the date of the meeting, be forwarded to the District Magistrate.

Power to make rules as to meetings and proceedings.

34. (*1*) Every committee may from time to time, at a special meeting make[1] rules consistent with this Regulation and any rules made under this Regulation by the Chief Commissioner, as to :—

(*a*) the time and place of its meetings ;

(*b*) the manner of convening ordinary and special meetings respectively and of giving notice thereof ;

(*c*) the quorum necessary for the transaction of business at ordinary meetings ;

(*d*) the conduct of proceedings at meetings, and the adjournment of meetings ;

(*e*) the division of duties among the members of the committee ;

[1] For rules of procedure under s. 34, see Ajmer Local Rules and Orders.

(*f*) the persons by whom receipts may be granted on behalf of the committee for money paid under this Regulation; and

(*g*) all other similar matters.

(*2*) Every rule made under this section shall be published in such manner as the Chief Commissioner may direct.

Officers and Servants.

Appointment of Secretary.

35. (*1*) Every committee shall, from time to time, at a special meeting appoint one or more of its members, or with the sanction of the Commissioner, any other person or persons, to be its secretary or secretaries, and may at a like meeting remove any person so appointed.

(*2*) If a person who is an officer in the service of the Government and who is not a member of the committee, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of such appointment, and shall continue to be a member of the committee as long as he holds the office of secretary.

(*3*) When a member of the committee is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the committee may, with the previous sanction of the Chief Commissioner, assign to a secretary such pay as it thinks fit.

Employment of other officers and servants.

36. Subject to the other provisions of this Regulation, and to such rules as the Chief Commissioner may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Pensions of Government officials serving committees.

37. In the case of a Government official a committee may—

(*1*) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the [1][Civil Service Regulations] for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Chief Commissioner.

Pensions of others.

38. In the case of an officer or servant not being a Government official a committee may—

(*1*) grant him leave-allowances and, if he is employed under a committee constituted under the North-Western Provinces and Oudh Municipalities Act, 1873,[2] when this Regulation comes into force and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and, XV of 1873

[1] Substituted by the Ajmer Amending Regulation, 1893 (IX of 1893), *infra*.

[2] Repealed by this Regulation, s. 17(*a*), *supra*.

(2) if empowered in this behalf by the Chief Commissioner,—

(*a*) subscribe on his behalf for pension or gratuity under the rules of the [1][Civil Service Regulations] for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the [1][Civil Service Regulations] for the time being in force, the officer or servant would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. (*1*) A committee may delegate to one or more of its members the power of entering into, on its behalf, any contract whereof the value or amount does not exceed two hundred rupees.

(*2*) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the committee at a meeting.

Mode of executing contracts.

40. (*1*) Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing.

(*2*) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary:

Provided that the committee may delegate to one or more of its members the power of executing any contracts which he is or they are empowered to enter into under section 39, *sub-section* (*1*)

(*3*) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the committee.

CHAPTER III.

TAXATION.

Taxation.

Taxes which may be imposed.

41. (*1*) Subject to any general rules or special orders which the Governor General in Council may make in this behalf, and to any rules made by the Chief Commissioner under this Regulation, a committee may, from time to time, for the purposes of this Regulation and in the manner by this Regulation directed, impose in the whole or any part of the municipality any of the following taxes, namely:—

(*1*) with the previous sanction of the Chief Commissioner:—

(*a*) a tax on buildings and lands situate within the municipality not exceeding seven and a half per centum on the annual value of the buildings and lands;

[1] Substituted by the Ajmer Amending Regulation, 1893 (IX of 1893), *infra*.

(*b*) a tax on persons practising any profession or art or carrying on any trade or calling in the municipality;

(*c*) a tax on all or any vehicles, boats, animals used for riding, driving, draught or burden, and dogs, kept within the municipality;

(*d*) a tax on vehicles and animals used as aforesaid entering the municipality;

(*e*) an octroi on animals for slaughter or goods or both brought within the municipality for consumption or use therein; and

(*B*) with the previous sanction of the Chief Commissioner and of the Governor General in Council, any other tax.

(*2*) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let:

Provided that, in the case of land which is assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, the annual value shall, if the Chief Commissioner so directs, be deemed to be double the amount of the land-revenue for the time being assessed on the land, or when the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, double the amount which, but for such release, composition, redemption or assignment, would have been assessable as land-revenue.

Scavenging-tax.

42. When a committee has, in exercise of the powers conferred by this Regulation, provided for the performance, with regard to any buildings or lands, by its agents, of the duties usually performed by sweepers, it may, with the previous sanction of the Chief Commissioner, in the manner by this Regulation directed, impose upon those buildings and lands, in addition to any other tax imposed upon them under this Regulation, a tax, to be called the scavenging-tax at such rate or of such amount as it thinks fit:

Provided that in fixing the rate or amount regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

Water-tax.

43. (*1*) Besides the taxes mentioned in sections 41 and 42, a committee, with the previous sanction of the Chief Commissioner, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or paying the principal or interest of any loan raised for the construction of such works, impose, in the manner by this Regulation directed, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(*2*) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, with the estimated income from pay-

ments for water supplied from the works under special contracts, should not exceed the amount required for the said purposes.

Procedure in imposing taxes.

44. (*1*) A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 41, section 42 or section 43.

(*2*) When such a resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(*3*) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(*4*) If no such objection is received within the said period of thirty days, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Chief Commissioner with the objections (if any) which have been submitted as aforesaid and its decision thereupon.

(*5*) The Chief Commissioner, on receiving such proposals, [1] may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(*6*) When the Chief Commissioner sanctions any such proposals which require the further sanction of the Governor General in Council, he shall submit the same to the Governor General in Council, with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Chief Commissioner for further consideration.

(*7*) When the proposals of a committee have been sanctioned by the Chief Commissioner, or by the Chief Commissioner and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals.

(*8*) In giving such direction the committee shall fix a date from which the tax shall come into force:

Provided that—

(*a*) no tax shall come into force until it has been notified;

(*b*) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and

(*c*) no other tax shall come into force less than one month from the date of the meeting at which its imposition is directed.

(*9*) A notification of the imposition of a tax under this Regulation shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Regulation.

[1] For notification under s. 44 (*5*) prescribing Octroi schedules for Ajmer and Beawar, *see* Ajmer Local Rules and Orders.

Power to abolish or reduce taxes.

45. A committee may, by a resolution passed at a special meeting and confirmed by the Chief Commissioner, abolish or reduce in amount any tax imposed under section 41, section 42 or section 43.

Power to exempt from taxation.

46. (*1*) A committee may exempt, in whole or in part from the payment of any such tax, any person who by reason of poverty may in its opinion be unable to pay the same.

(*2*) A committee may, by resolution passed at a special meeting and confirmed by the Chief Commissioner and the Chief Commissioner may, by order, exempt in whole or in part from the payment of any such tax any person or class of persons, or any property or description of property.

Power for Chief Commissioner to suspend levy of tax.

47. (*1*) If at any time it appears to the Chief Commissioner, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the general public, he may require the committee to take within a specified period measures to remove the objection, and, if within that period the requirement is not complied with to the satisfaction of the Chief Commissioner, the Chief Commissioner may by notification suspend the levy of the tax or of such part thereof until the objection has been removed.

(*2*) The Chief Commissioner may at any time, by notification, rescind any such suspension.

Taxes not invalid for defect of form.

48. No tax imposed under this Regulation shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes when payable.

49. Any tax imposed under section 41, section 42 or section 43 and payable periodically shall be payable on such dates and in such instalments (if any) as the committee, with the previous sanction of the Chief Commissioner, may, by rule, from time to time direct.

Receipts to be given.

50. For all sums paid on account of any tax under this Regulation, a receipt stating the amount and the tax on account of which it is paid shall be given by the person receiving the same, on request by the person making the payment.

Appeals against taxation.

51. (*1*) An appeal against the assessment or levy of any tax under this Regulation shall lie to the District Magistrate [1][or other officer empowered by the Chief Commissioner in this behalf, unless the District Magistrate is a member of the Committee, in which case the appeal shall lie to the Chief Commissioner.]

(*2*) The order of the appellate authority shall be final.

Limitation for appeals.

52. (*1*) No appeal shall lie in respect of a tax on any building or land unless it is preferred within two months after the publication of the notice prescribed by section 58, and no appeal shall lie in respect of any other tax

[1] Substituted by Reg. II of 1914, *infra*.

unless it is preferred within two months from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the amount of the tax to which it relates is deposited with the committee before the appeal is preferred.

Taxation not to be questioned except under this Regulation.

53. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Regulation is provided.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Regulation.

54. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873,[1] at the time when a committee having authority over that local area comes into existence under this Regulation, shall so far as their imposition and assessment are consistent with this Regulation and within the powers conferred thereby, be deemed to have been imposed and assessed under this Regulation.

XV of 1873.

Taxes on Immoveable Property.

Preparation of assessment list.

55. (*1*) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) the name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value on which the property is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(*2*) For the purpose of preparing the list the committee may require the owners or occupiers of the buildings or lands to furnish it with returns of annual value.

Publication of notice of assessment.

56. When the assessment-list has been completed, the committee shall give public notice thereof and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment list.

57. (*1*) The committee shall at the same time give public notice of a time not less than one month from the publication of the notice, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(*2*) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time

[1] Rep. by this Regulation—*see* s. 17(*a*), *supra*.

Settlement of list.

58. (*1*) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

(*2*) The list when amended under this section shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further amendments of assessment-list.

59. (*1*) The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake, oversight or fraud, after giving notice, to any person interested in the amendment of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(*2*) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list need not be prepared every year.

60. It shall be in the discretion of the committee to prepare a new assessment-list every year; or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same notice of the valuation and assessment as if a new assessment-list had been prepared.

Remission of tax on unoccupied immoveable property.

61. (*1*) When a tax payable under section 41, sub-section (*1*), clause (*a*), or under section 42 or section 43, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted:

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given to it within such time from the beginning of the year or of the period as it may, from time to time, fix in this behalf.

(2) When in any case not provided for by the foregoing part of this section a building in respect of which a tax is payable under section 41, sub-section (*1*), clause (*a*), or under section 42 or section 43, is wholly or in greater part demolished or destroyed by fire or otherwise, the committee may remit such proportion of the tax as it thinks equitable.

Taxes on immoveable property by whom payable.

62. (*1*) A tax payable under section 41, sub-section (*1*), clause (*a*), shall be paid by the owner of the property in respect of which it is payable.

(2) A tax payable under section 42 or section 43 shall be paid by the occupier of the property in respect of which it is payable.

Recovery of taxes payable by owner.

63. (*1*) When any sum is due on account of a tax payable under this Regulation in respect of any property by the owner thereof, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

(2) If the bill is not paid within one month from the presentation thereof the sum due shall be deemed to be an arrear of tax.

(3) The amount of every such arrear may be recovered, on the application of the committee, by the officer discharging the functions of a Collector under the Ajmere Land and Revenue Regulation, 1877,[1] in the part of the territories administered by the Chief Commissioner in which the municipality is situate, as if the property were an estate assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Reg. II of 1877.

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Octroi and Tolls.

Power to search where octroi is leviable.

64. If any person, bringing or receiving a conveyance or package within the octroi-limits of a municipality in which octroi is leviable, refuses, on the demand of an officer authorized by the committee in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate, who shall cause the inspection to be made in his presence.

Power to examine article liable to octroi.

65. Every person bringing or receiving within the octroi-limits of any municipality any article on which octroi is payable shall, when required by an officer authorized by the committee in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh and otherwise deal with the article; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article.

[1] *Supra.*

Presentation of bill for octroi.

66. Every officer demanding octroi by the authority of the committee shall tender to every person introducing or receiving any article on which the tax is claimed a bill specifying the article taxable, the amount claimed and the rate at which the tax is calculated.

Recovery of octroi and tolls.

67. (*1*) In case of non-payment of any octroi or of any toll on demand, the officer empowered to collect the same may seize any article on which the octroi is chargeable, or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(*2*) The committee may cause any property so seized, or so much thereof as is necessary, to be sold by auction to satisfy the demand, with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale:

Provided that, by order of the chairman or a vice-chairman, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as the chairman or vice-chairman may, having regard to the nature of the articles, think proper.

CHAPTER IV.

MUNICIPAL FUND AND PROPERTY.

Constitution of municipal fund.

68. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by or on behalf of the committee under this Regulation or otherwise;

(*b*) all fines realised in cases in which prosecutions are instituted under this Regulation or the rules made hereunder or under section 34 of Act V of 1861 [1] for offences committed within the municipality; and

(*c*) when there has been included within the municipality any municipality constituted under the North-Western Provinces and Oudh Municipalities Act, 1873,[2] the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the committee comes into existence. XV of 1873.

Application of fund.

69. (*1*) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

[1] The Police Act, 1861; General Acts, Vol. I.

[2] Rep. by this Regulation —*see* s. 17(*a*), *supra*.

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions, contributions and payments as are referred to in sections 37 and 38. * * * *[1]

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for eduction, sanitation, vaccination, medical relief and public works as may be held by the Chief Commissioner to be equitably debitable to the committee in return for services rendered to it by those Departments.

(*2*) Subject to the charges specified in sub-section (*1*) and to such rules as the Chief Commissioner may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Commissioner outside the municipality, when such application of the fund is for the benefit of the inhabitants of the municipality, namely :—

(*a*) the construction, maintenance, improvement, cleansing and repair of public streets, bridges, embankments, drains, latrines, tanks and water-courses ;

(*b*) the watering and lighting of such streets or any of them ;

(*c*) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, encamping grounds, pounds and other works of public utility and the control and administration of public institutions of any of these descriptions ;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions ;

(*e*) the training of teachers and the establishment of scholarships ;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;

(*g*) the supply, storage and preservation from pollution of water for the use of men or animals ;

(*h*) the planting and preservation of trees ;

(*i*) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measure ;

(*j*) the holding of fairs and industrial exhibitions ; and

(*k*) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

[1] Words repealed by Reg. II of 1914, *infra*, are omitted.

Custody of municipal fund.

70. (*1*) In places where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury.

(*2*) In places where there is no such treasury or sub-treasury, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Chief Commissioner may in each case think sufficient.

Investment of same.

71. (*1*) A committee may, from time to time, with the previous sanction of the Chief Commissioner, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of a like nature.

(*2*) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

Management of public institutions.

72. The management, control and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Chief Commissioner.

CHAPTER V.

MUNICIPAL POLICE.

73, 74, 75, 76, 77. [*Rep. Regulation II of 1914.*][1]

CHAPTER VI.

POWER FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

Power to acquire land for building-sites adjoining new streets.

78. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, any land unoccupied by buildings which is, in the opinion of the committee, necessary for the sites of the buildings to be erected on the sides of the street.

Power to close streets.

79. The committee may close temporarily any street or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close any such street.

Power to permit temporary occupation of streets, etc.

80. The committee may grant permission in writing for the temporary occupation of any street or of any land under its control or management, for

[1] The Ajmere Repealing and Amending Regulation, 1914, *infra*.

the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to attach brackets for lamps.

81. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Names of streets and numbers of buildings.

82. (*1*) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

(*2*) Whoever destroys, pulls down or defaces any such name or number or puts up any different name or number from that put up by order of the committee, shall be punished with fine which may extend to twenty rupees.

Roofs and external walls not to be made of inflammable materials.

83. The committee at a meeting may direct that within certain limits, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable, materials unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Power to regulate line of buildings.

84. (*1*) If any building or part of a building projects beyond the regular line of a street either existing or determined on for the future, or beyond the front of the building on either side thereof the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(*2*) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

Notice of new buildings.

85. (*1*) Every person intending to erect or re-erect any building shall, if required to do so by [1] rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed and the materials to be used, and shall obey all written directions consistent with this Regulation given by the committee within one month after

[1] For rules under s. 85 regarding the erection and re-erection of buildings in Ajmer, *see* Ajmer Local Rules and Orders.

receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely :—

(*a*) free passage or way in front of the building ;
(*b*) space to be left about the building to secure free circulation of air and facilitate scavenging ;
(*c*) ventilation and drainage ;
(*d*) level and width of foundation, level of lowest floor and stability of structure ; and
(*e*) the line of frontage with neighbouring buildings if the building abuts on a street :

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(*2*) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid, when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression " erect any building " includes all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

86. (*1*) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a street to add to, or place against or in front of, the building any projection [1] or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(*2*) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof if the same overhangs or projects into or encroaches on any street, or projects into or encroaches on any drain, aqueduct or sewer in the street :

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the making of this Regulation, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

[1] For rules under s. 86 as to the erection of Jharokás and other projections in streets in Ajmer, *see* Ajmer Local Rules and Orders.

(3) The committee may give written permission to the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing-places.

Bathing and washing places.

87. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing, or the washing of animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

88. The committee may fix places within, or with the approval of the District Magistrate beyond, the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind, or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

89. (*1*) The committee may, with the approval of the District Magistrate, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

(*2*) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(*3*) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(*4*) Whoever slaughters any such animal at any other place for sale within the municipality shall be punished with fine which may extend to twenty rupees.

Burial and Burning Places.

Powers in respect of burial and burning places.

90. (*1*) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed from a date to be specified in the notice,

and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Regulation, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punished with fine which may extend to fifty rupees.

Removal of corpses.

91. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable materials.

92. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting dry grass, straw or other inflammable materials or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of drains, privies and cesspools.

93. (1) The committee, by any person authorized by it in this behalf may, after giving six hours' notice in writing to the occupier of any land or building in which any drains, privies or cesspools are situated, inspect any such drains, privies or cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the drains, privies or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner of the land or building, or by the occupier as the committee may direct; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

Power to enter and inspect buildings, etc.

94. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier to the owner, of any building, at any time between sunrise and sunset, enter and inspect the building, and may by notice direct all or any part thereof to be

forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

95. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner of any building or land, at any time between sunrise and sunset—

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect and measure any building for the purpose of valuation; or

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which it is by this Regulation empowered to execute or maintain.

Power to enter for discovery of vehicles or animals liable to taxation.

96. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Regulation for which a license has not been duly taken out.

Power to inspect places for sale of food or drink, etc., and to seize unwholesome articles exposed for sale.

97. The committee, by any person authorized by it in this behalf, may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of food or drink for human consumption, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug or animal which may be therein; and if any article of food or drink or any animal therein appears to be intended for human consumption and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Power of entry for purpose of scavenging.

98. (*1*) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands or of any drains, privies, cesspools or other receptacles for offensive matter pertaining to buildings or land.

(*2*) Such provision may be made in respect of individual buildings or lands or of buildings or lands generally in any ward or part of the municipality.

(*3*) Nothing in this section or section 42 shall be deemed to preclude the committee from making provision of a different nature for different buildings or lands or different wards or parts of the municipality, and charging scavenging-tax at different rates therefor, or from exempting wholly or in part from such tax at its discretion any individual who has made arrangements to its satisfaction for the performance of the duties aforesaid.

(4) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions to be observed in entering dwelling.

99. When any building used as a human dwelling is entered under this Regulation, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman who, according to custom, does not appear in public, is entered under this Regulation, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

Troughs and pipes for rain-water.

100. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof, and for discharging the same so as not to inconvenience persons passing along the street.

Provision of privies, etc.

101. (1) The committee may, by notice require the owner of any building to provide any privy or cesspool, or additional privies or cesspools, which should in its opinion be provided for the building, in such manner as the committee directs.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

Repair and closing of drains, privies, and cesspools.

102. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy or cesspool, or to close any cesspool belonging thereto.

(2) The committee may, by notice, require any person who constructs any new drain, privy or cesspool without its permission in writing, or contrary to its directions or rules or to the provisions of this Regulation, or who constructs, re-builds or opens any drain, privy or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy or cesspool or to make such alteration therein as it thinks fit.

Unauthorized build-

103. The committee may, by notice, require any person who without its permission in writing newly erects or re-builds any building over any public

sewer, drain, culvert, water-course or water-pipe to pull down or otherwise deal with the same as it thinks fit. ings over drains, etc.

104. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week. Removal of latrines, etc., near any source of water-supply.

105. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood: Power to require drainage, etc., of unwholesome tanks, etc.

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the person who is required to drain his land, or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

106. If any building, or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger. Power to require buildings, wells, tanks, etc., to be secured.

107. If any building, wall or structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure as the committee considers necessary for the public safety; and, if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger. Buildings, etc., in ruinous or dangerous state.

Buildings and Grounds in Unsanitary Condition.

108. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood. Power to require owner to clear away noxious vegetation.

109. The committee may, by notice, require the owner or occupier of any land within three days to cut or trim the hedges thereof bordering on any street or branches of trees growing thereon which overhang any street, and obstruct the same or cause danger therein, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof. Power to trim hedges and trees bordering on streets.

Power to have building or land cleansed.

110. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

Power in respect of building unfit for habitation.

111. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation or suffering it to be so used until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

112. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which by reason of abandonment or disputed ownership or other cause remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Cultivation, use of manure or irrigation, injurious to health after prohibition.

113. (*1*) The Chief Commissioner may, on the joint report of the District Magistrate and the Civil Surgeon that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, by notification prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury:

Provided that, when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(*2*) If any person cultivates, uses manure or irrigates in disregard of the prohibition or conditions notified under sub-section (*1*), he shall be punished with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

114. (*1*) The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

melting tallow; or
boiling bones, offal or blood; or
as a soap-house, oil-boiling house, dyeing-house or tannery; or
as a brick-kiln, pottery or lime-kiln; or

as any other manufactory or place of business from which offensive or unwholesome smells arise; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material; or as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to prohibit such trades.

115. (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make Rules.

Power of committee to make rules.

116. (1) A committee may, from time to time, at a special meeting make rules [1]—

[2](a) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the

[1] As to procedure for making rules under s. 116, *see* s. 150 *infra*.

[2] For rules under clauses(a) and (b) as to the licensing and hire of Thelas in Ajmer, *see* Ajmer Local Rules and Orders.

conditions under which they are to be granted and may be revoked;

[1](*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads and the loads to be carried by such conveyances, animals or persons where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

[2](*c*) for securing a proper registration of births, marriages and deaths, and for the taking of a census;

(*d*) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings;

for the registration and inspection of such buildings;

for promoting cleanliness and ventilation in such buildings;

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings;

and generally for the proper regulation of such buildings;

[3](*e*) for the inspection and proper regulation of encamping grounds, pounds, sarais, markets and slaughter-houses;

(*f*) for the holding of fairs and industrial exhibitions within the municipality and under its control;

[3](*g*) for controlling and regulating the use and management of burial and burning grounds;

[3](*h*) for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

[3](*i*) where the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purpose of collecting that tax; and

(*j*) generally for carrying out the purposes of this Regulation:

Provided that the committee of a municipality in which the Hackney-carriage Act, 1879,[4] is in force shall not make rules under clauses (*a*) and (*b*) in respect of any vehicles to which that Act applies. XIV of 1879.

(*2*) In making any rule under this section the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees and, when the breach is a continuing breach, with a further fine which may

[1] For rules under clauses (*a*) and (*b*) as to the licensing and hire of Thelas in Ajmere, *see* Ajmer Local Rules and Orders.

[2] For rules under clause (*c*), *see* Ajmer Local Rules and Orders.

[3] For rules under these clauses regarding sarais, paraos, markets, slaughter-houses, burial and burning grounds, water supply, and the collection of octroi, *see* the Ajmer Local Rules and Orders.

[4] *Supra.*

extend to five rupees for every day after the first during which the breach continues.

(3) No rule made under this section shall come into force until it has been confirmed by the Chief Commissioner and published for such time and in such manner as the Chief Commissioner may prescribe in this behalf.

Supplemental.

Execution of acts required to be done by any notice.

117. (1) When any notice under this chapter requires any act to be done for which no time is fixed by this Regulation, it shall fix a reasonable time for doing the same.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

Recovery of costs of execution.

118. (1) Where, under this Regulation, the owner or occupier of property is required by the committee to execute any work and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner:

(3) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit or on application to a Magistrate having jurisdiction within the municipality, by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of

119. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of

municipal fund.

the powers vested in the committee, its officers and servants under this Regulation, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Regulation to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement in the manner provided by the Land Acquisition Act, 1870,[1] sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable. X of 1870.

Appeals against certain orders of committee.

120. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 90, 91, 111 or 115 may appeal within thirty days from the date thereof to the District Magistrate; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if in the latter case the District Magistrate is himself a member of the committee, the appeal shall lie to the [Chief Commissioner].[2]

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying, the order appealed against shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VII.

Offences affecting the Public Health, Safety or Convenience.

Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

121. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or public place, or into any public sewer or drain or any drain communicating therewith, shall be punished with fine which may extend to twenty rupees.

Discharging sewage.

122. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter to flow drain or be put upon any street or public place, or into any sewer or drain not set apart for the purpose, shall be punished with fine which may extend to twenty rupees.

Non-removal of filth, etc.

123. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some

[1] *See* now the Land Acquisition Act, 1894 (1 of 1894), General Acts, Vol. IV.

[2] Substituted for "Commissioner" by Reg. II of 1914, *infra*.

proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punished with fine which may extend to twenty rupees.

Making or altering drains without authority.

124. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any public sewer or drain under the control of the committee, shall be punished with fine which may extend to fifty rupees.

Penalty for making or keeping latrines, etc., near any source of water-supply

125. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 104 any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punished with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine which may extend to five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Keeping animals so as to be injurious to health.

126. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to health or to become a nuisance, shall be punished with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Feeding animals on deleterious substances.

127. Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punished with fine which may extend to fifty rupees.

Driving vehicles without proper lights.

128. Whoever drives any vehicle after dark in any public street or thoroughfare [1]* * * * * * * unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punished with fine which may extend to twenty rupees.

Discharging firearms, etc.

129. Whoever discharges firearms or lets off fireworks or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punished with fine which may extend to twenty rupees.

Control of elephants and camels.

130. Whoever, being an elephant-driver, or camel-driver, omits on being requested to do so, to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punished with fine which may extend to twenty rupees.

Taking elephants along streets.

131. Whoever, contrary to any orders of the committee, takes an elephant along a street shall be punished with fine which may extend to twenty rupees.

[1] Words repealed by Reg. I of 1905, *infra*, are omitted.

Suffering dogs to be at large.

132. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any street or public place, shall be punished with fine which may extend to twenty rupees.

Altering, obstructing or encroaching upon streets, etc.

133. Whoever, without the written permission of the committee, alters, obstructs or encroaches upon any street or public sewer, drain or water-course or displaces, takes up or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building materials or makes any hole or excavation on or in any street, shall be punished with fine which may extend to fifty rupees.

Quarrying, blasting, cutting timber or building.

134. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punished with fine which may extend to fifty rupees.

Picketing animals and collecting carts.

135. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punished with fine which may extend to twenty rupees.

Carrying corpses by prohibited routes or so as to cause annoyance.

136. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public shall be punished with fine which may extend to ten rupees.

Destroying direction-posts, lamp-posts, etc.

137. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any street or public place, shall be punished with fine which may extend to twenty rupees.

Penalty for disobedience to orders of committee under Chapter VI.

138. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by Chapter VI, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers shall, if the disobedience or omission is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Regulation, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Regulation.

Prosecution to be suspended in certain cases.

139. A prosecution for an offence under section 90, section 115 or section 138, when the order which has been disobeyed is appealable, shall be suspended when the Magistrate learns that an appeal has been instituted,

pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

CHAPTER VIII.

CONTROL.

Control by District Magistrate.

140. The [1] * * * * District Magistrate, when he is not a member of the committee, may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any committee or joint committee, or any work in progress under the direction of a committee or joint committee;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee;

(*c*) by order in writing require any committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to its proceedings or duties as he thinks fit to call for; and

(*d*) record in writing for the consideration of any committee or joint committee any observations he thinks proper in regard to its proceedings or duties.

Power to suspend action by committee or joint committee.

141. (*1*) The [1] * * * * District Magistrate may, by order in writing, suspend the execution of any resolution or order of a committee, or joint committee, or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Regulation, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace or to cause injury or annoyance to the public or to any class or body of persons.

(*2*) When the [1] * * * * District Magistrate makes any order under this section, he shall forthwith forward a copy thereof with a statement of his reasons for making it [1] * * * * * * to the Chief Commissioner, who may thereupon rescind the order, or direct that it continue in force with or without modification permanently or for such period as he thinks fit.

Extraordinary powers of District Magistrate in case of emergency.

142. (*1*) In cases of emergency the District Magistrate may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion, necessary for the service or safety of the public, and may direct

[1] Words repealed by Reg. II of 1914, *infra*, are omitted.

that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(*2*) If the expense is not so paid, the District Magistrate may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible from that balance, in priority to any or all other charges against the same.

(*3*) The District Magistrate shall forthwith report to the [1][Chief Commissioner] every case in which he exercises the powers conferred on him by this section.

Powers of Chief Commissioner in case of default of committee.

143. (*1*) If at any time it appears to the Chief Commissioner that a committee has made default in performing any duty imposed on it by or under this Regulation or any other law, the Chief Commissioner may, by order in writing, fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Chief Commissioner may appoint the District Magistrate to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, to the Magistrate by the committee.

(*3*) If the expense is not so paid, the District Magistrate, with the previous sanction of the Chief Commissioner, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible from that balance, in priority to any or all other charges against the same.

Power of Chief Commissioner to supersede committee in case of incompetency, persistent default or abuse of powers.

144. (*1*) If a committee is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Regulation or any other law for the time being in force, or exceeds or abuses its powers, the Chief Commissioner may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the official Gazette, declare that committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(*2*) When a committee is so superseded, the following consequences shall ensue :—

(*a*) all members of the committee shall, as from the date of the order, vacate their offices as such members;

(*b*) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner appoints in that behalf; and

(*c*) all property vested in the committee shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of supersession specified in the order the committee shall be reconstituted, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for being members.

[1] Substituted for "Commissioner" by Reg. II of 1914, *infra*.

145. (*1*) The Chief Commissioner may frame forms for any proceeding of a committee for which he considers that a form should be provided, and make rules[1] consistent with this Regulation— Power of Chief Commissioner to frame forms and make rules.

(*a*) as to the appointment of members of a committee;

(*b*) as to the term of office of members of a committee, and of chairmen who, not being members of a committee at the time of their election, have been elected to the office of chairman, or who have been appointed to that office by the Chief Commissioner;

(*c*) as to the filling of casual vacancies among elected and appointed members of a committee:

(*d*) as to the language in which business shall be transacted, proceedings recorded and notices issued;

(*e*) as to the assessment and collection of taxes imposed under this Regulation and for preventing evasion of the same;

(*f*) as to the authority on which money may be paid from the municipal fund;

(*g*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(*h*) as to the qualifications requisite in the case of persons appointed by the committee to offices requiring professional skill;

(*i*) as to the intermediate office or offices, if any, through which correspondence between committees and the Chief Commissioner or his officers, and representations addressed to the Chief Commissioner under this Regulation shall pass;

(*j*) as to the exhibition of tables of octroi, the system under which refunds shall be made on account of that tax when the goods on which the tax has been paid are again exported, and the storage of goods declared not to be intended for use or consumption within the municipality into which they are brought;

(*k*) as to the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality;

(*l*) as to the priority to be given to the several duties of the committee;

(*m*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*n*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under this Regulation, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

[1] As to procedure for making rules under s. 145, *see* s. 150, *infra*.

(*o*) as to the preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned ;

(*p*) as to the returns, statements and reports to be submitted by committees ;

(*q*) as to the publication of notices ; and

(*r*) generally, for the [1] guidance of committees and public officers in all matters connected with the carrying out of this Regulation.

(*2*) In making rules under sub-section (*1*), clause (*e*), the Chief Commissioner may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

CHAPTER IX.

SUPPLEMENTAL.

Penalty on member, officer or servant of committee being interested in contract made with committee.

146. (*1*) If any member, officer or servant of a committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.[2] XLV of 1860.

(*2*) A person shall not by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

Suits against committee and its officers.

147. (*1*) No suit shall be instituted against a committee, or against an officer of a committee in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been, in the case of a committee, left at its office, and, in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff ; and the plaint must contain a statement that such a notice has been so delivered or left :

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.[3] I of 1877.

(*2*) A suit against an officer of a committee in respect of an act purporting to be done by him in his official capacity shall be instituted within three months next after the accrual of the cause of action, and not afterwards.

Liability of members for loss, waste or misapplication.

148. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee, if such loss, waste

[1] For general rules under s. 145 (*r*) for Municipalities in Ajmer-Merwara, *see* Ajmer Local Rules and Orders. For rules as to the supply of water to private consumers and the realisation of fees, *see* Gazette of India, 1911, Pt. II, p. 206.

[2] Act XLV of 1860, General Acts, Vol. I.

[3] Act I of 1877, General Acts, Vol. II.

or misapplication is a direct consequence of his neglect or misconduct while a member of the committee; and a suit for compensation may be instituted against him by the committee with the previous sanction of the Commissioner or by the Secretary of State for India in Council.

Acquisition of land under Act X of 1870.

149. Where any land, whether within or without the limits of a municipality is required for the purposes of this Regulation, the Chief Commissioner may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870[1]; and, on payment by the committee of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

Procedure for making rules.

150. (*1*) The authority empowered to make rules under section 10, section 116 or section 145 shall, before making them, publish, in such manner as may *in its opinion* be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.[2]

(*2*) Every rule made under any of those sections shall be published in such manner as the Chief Commissioner may direct: and such publication shall be conclusive proof that the rule has been made as required by this section.

Prosecutions.

151. A Court shall not take cognizance of an offence punishable under this Regulation, or the rules made under this Regulation, except on the complaint of the committee or of some person authorized by the committee in this behalf.

Saving of prosecutions under other laws.

152. Nothing in this Regulation shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Regulation or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Regulation or the rules made under it:

Provided that a person shall not be punished twice for the same offence.

Recovery of taxes, etc.

153. Any arrears of any tax or fee or any other money claimable by a committee under this act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.

Notification of intention to alter limits of municipality.

154. The Chief Commissioner may, by notification, and in such other manner as he may determine, declare his intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification, or

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

[2] For notification as to the commencement of the triennial election rules at Berar, *see* Gazette of India, 1897, Pt. II, p. 325.

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

155. (*1*) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 154 may, if he objects to the alteration proposed, submit his objection in writing to the Chief Commissioner within six weeks from the publication of the notification, and the Chief Commissioner shall take the objection into consideration.

(*2*) When six weeks from the publication of the notification have expired and the Chief Commissioner has considered the objections (if any) which have been submitted under sub-section (*1*), the Chief Commissioner may, by notification, exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

156. (*1*) When a local area is excluded from a municipality under section 155—

(*a*) this Regulation and all rules, orders, directions and powers made, issued or conferred under this Regulation, shall cease to apply thereto: and

(*b*) the Chief Commissioner shall, after consulting the committee, frame, a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council, and on the publication of the scheme in the official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(*2*) All property vested in Her Majesty under sub-section (*1*) shall be applied under the orders of the Chief Commissioner to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

Effect of including local area in municipality.

157. When a local area is included in a municipality under section 155, this Regulation, and all rules, orders, directions and powers made, issued or conferred under this Regulation, and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Powers exercisable from time to time.

158. All powers conferred by this Regulation on the Governor General in Council or on the Chief Commissioner may be exercised from time to time as occasion requires.

Saving of Act XI of 1879.

159. Nothing in this Regulation shall affect the Local Authorities Loan Act, 1879.[1] XI of 1879.

[1] See now the Local Authorities Loans Act, 1914 (IX of 1914).

160. Every member of a committee constituted under this Regulation shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force. Member of committee to be municipal commissioner.

161. Anything done or any proceeding taken under this Regulation shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case. Vacancies and irregularities not to invalidate proceedings.

CHAPTER X.

Exceptional Provisions.

162. (*1*) If it appears to the Chief Commissioner that the circumstances of any municipality are such that the provisions of this Regulation requiring that a certain proportion of the members of a committee be elected are unsuited thereto, the Chief Commissioner may, by notification, except the municipality, wholly or in part, from the operation of those provisions; and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Chief Commissioner: Power to except municipalities from operation of provisions of Regulation regarding election.

Provided that a notification shall not be issued under this section in respect of a municipality for which a committee has come into existence unless its issue has been sanctioned by the Governor General in Council.

(*2*) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions mentioned in sub-section (*1*), the Chief Commissioner may appoint such of the members of the committee as would otherwise have been elected.

163. (*1*) The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification, withdraw from the operation of this Regulation, * * * * [1] the area of any municipality constituted under this Regulation * * * *.[1] Power to withdraw municipal area altogether from operation of Regulation.

(*2*) When a notification is issued under this section in respect of any municipality, this Regulation, * * * * [1] and all rules, bye-laws, orders, directions and powers made, issued or conferred thereunder, shall cease to apply to the local area comprised in the municipality; the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the committee shall vest in Her Majesty; and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(*3*) All property vested in Her Majesty under sub-section (*2*) shall be applied under the orders of the Chief Commissioner to discharging the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

[1] Words repealed by Reg. IX of 1893, *infra*, are omitted.

THE AJMERE RURAL BOARDS REGULATION, 1886.

[REG. VI OF 1886.]

CONTENTS.

CHAPTER 1.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.

CHAPTER II.

LOCAL RATE.

2. Local rate.

CHAPTER III.

CONSTITUTION OF DISTRICT BOARDS AND LOCAL BOARDS.

3. Formation of districts and sub-districts.
4. Establishment of district board for district and of local board for sub-district.
5. Number and appointment or election of members.
6. Term of office of members.
7. Resignation of members.
8. Power of Chief Commissioner as to removal of members.
9. Filling of casual vacancies.
10. Incorporation of district board.
11. Time for boards coming into existence.

CHAPTER IV.

DUTIES OF DISTRICT BOARDS.

12. Matters to be administered by district board.
13. District board not to abolish any institution without concurrence of departmental authority, and not to depart from approved principles of administration.

CHAPTER V.

Officers and Servants.

Sections.
14. Employment of officers and servants.
15. Pensions of Government officials serving the district board.
16. Pensions of other officers and servants.

CHAPTER VI.

District Fund.

17. Constitution, custody and application of the district fund.

CHAPTER VII.

Control.

18. Power of Commissioner in cases of default of district board.
19. Power of Commissioner to suspend, and of Chief Commissioner to cancel, proceedings of boards.
20. Power to supersede district board in case of incompetency, persistent default or abuse of powers.

CHAPTER VIII.

Liability of Members of Boards.

21. Liability of members for loss, waste or misapplication.

CHAPTER IX.

Forms and Rules.

22. Power of Chief Commissioner to frame forms and make rules.
23. Power of boards to make rules.

REGULATION No. VI OF 1886.

[THE AJMERE RURAL BOARDS REGULATION, 1886.]

(*Published in the Gazette of India of the 16th October, 1886.*)

WHEREAS a rate is levied on land in Ajmere and Merwara for certain local purposes, and it is expedient to make better provision for the constitution of local bodies to administer the expenditure of the proceeds of that rate, and of the income accruing from certain other sources of revenue which may, from time to time, be made applicable to local purposes. It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

ort title, tent and mmence- ent.

1. (*1*) This Regulation may be called the Ajmere Rural Boards Regulation, 1886.

(*2*) It extends to all the territories which are now under the administration of the Chief Commissioner of Ajmere and to which the provisions of the thirty-third of Victoria,[1] chapter three, section one, have been declared applicable ; and

(*3*) It shall come into force on the first day of November, 1886.

CHAPTER II.

LOCAL RATE.

ɔcal rate.

2. (*1*) Every estate shall be subject to the payment of a rate, to be called the local rate, not exceeding three pies for every rupee of its annual value.

(*2*) "Annual value" in sub-section (*1*) means—

(*a*) in the case of a khálisa estate, double the land-revenue for the time being assessed on the estate ;

(*b*) in the case of an istimrári estate, double the land-revenue which would have been assessable on the estate if the land-revenue thereof had not been in part released ; and

(*c*) in the case of a jagir estate, double the land-revenue which would have been assessable on the estate if the land-revenue thereof had not been wholly released.

[1] The Government of India Act, 1870, printed in Collection of statutes relating to India Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5 c. 61).

(3) The rate levied on any estate for the maintenance of roads, schools and the district-post at the time of the enactment of this Regulation shall be deemed to be the local rate to which the estate is subject under this section.

(4) The Chief Commissioner may at any time direct the revision of the assessment of the local rate for all or any estates in any local area, and from time to time prescribe the instalments and times in and at which that rate shall be payable.

(5) The local rate may be recovered as if it were an arrear of land-revenue due in respect of the estate subject thereto.

CHAPTER III.

Constitution of District Boards and Local Boards.

Formation of districts and sub-districts.

3. (1) By order [1] in writing, for the purposes of this Regulation, the Chief Commissioner may declare all the territories under his administration to be one district, or may divide those territories into districts, and may divide any district into sub-districts.

(2) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

(3) There shall be excluded from the district or districts formed under this section such portions of the said territories as are for the time being included in the limits of a military cantonment or of a municipality.

Establishment of district board for district and of local board for sub-district.

4. There shall be established for the district, or for each district, as the case may be, a district board having authority over the district, and when the district is divided into sub-districts, for each sub-district a local board, which shall in the sub-district be the agent of the district board and, as such agent, have such authority and discharge such duties as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Number and appointment or election of members.

5. (1) A district board or local board shall consist of such number of members, not less than six, as the Chief Commissioner may, from time to time, fix in this behalf.

(2) The members may be appointed by the Chief Commissioner either by name or by official designation, or may be elected in accordance with rules made by the Chief Commissioner under this Regulation, or some may be appointed and some elected, as the Chief Commissioner from time to time directs:

Provided that—

(a) not less than two-thirds of the members of every board shall be persons by whom the local rate is payable; and

[1] For order constituting the Ajmer District Board, *see* Ajmer Local Rules and Orders.

(*g*) the regulation of encamping-grounds;

(*h*) the holding and management of agricultural shows and industrial exhibitions;

(*i*) the maintenance of any property which is vested in the district board or may be placed by the Chief Commissioner under the management of that board; and

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public.

District board not to abolish any institution without concurrence of departmental authority, and not to depart from approved principles of administration.

13. (*1*) The district board shall not abolish any school, dispensary or other institution without reference to the head of the department concerned.

(*2*) If any difference of opinion arises between the district board and the head of a department under sub-section (*1*), the decision thereon of the Chief Commissioner shall be final.

(*3*) The district board shall, in controlling and administering the matters specified in section 12, observe those general principles which the Government has approved in the several departments of the administration.

CHAPTER V.

Officers and Servants.

Employment of officers and servants.

14. (*1*) The district board may employ such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards (if any) in the district, and may assign to such officers and servants such pay as it thinks fit and as may be approved by the Commissioner.

(*2*) If, in the opinion of the Commissioner,—

(*a*) the number of persons employed by the district board under this section is excessive, or

(*b*) any such person is unfit for his employment, the board shall, on the requirement of the Commissioner, reduce the number, or dismiss the unfit person, as the case may be.

Pensions of Government officials serving the district board.

15. In the case of a Government official, the district board may—

(*1*) If his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the [1][Civil Service Regulations] for the time being in force; and

(*2*) If he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Chief Commissioner.

[1] The words ' Civil Service Regulations ' were substituted for " Government Civil Pension and Leave Codes " in s. 15 by Reg. IX of 1893, *infra*.

16. In the case of an officer or servant not being a Government official referred to in section 15, the district board may— Pensions of other officers and servants.

(*1*) grant him leave-allowances, and, if his monthly pay is less than ten rupees, a gratuity; and

(*2*) if empowered in this behalf by the Chief Commissioner—

(*a*) subscribe in his behalf for pension or gratuity under the rules of the [1][Civil Service Regulations] for the time being in force, or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the [1][Civil Service Regulations] for the time being in force, the officer or servant would be entitled if the service had been service under the Government.

CHAPTER VI.

District Fund.

17. (*1*) There shall be formed for the district or for each district, as the case may be, a fund to be called the district fund, and there shall be placed to the credit thereof— Constitution, custody and application of the district fund.

(*a*) the whole, or such portion as the Chief Commissioner may determine, of the balance of local funds available in whole or in part for expenditure in the district on the day on which the district board comes into existence;

(*b*) the proceeds of the local rate levied in the district, after deduction therefrom of such sum as the Chief Commissioner may assign for the maintenance of the district post;

and subject to such exceptions and conditions as the Chief Commissioner may from time to time make and impose, the following, namely:—

(*c*) the sale-proceeds of grass and of the produce of trees on the sides of roads and on other public ground under the control and administration of the district board, and of timber fallen and felled thereon;

(*d*) the surplus accruing in the district under section 18 of the [2] Cattle-trespass Act, 1871.

(*e*) receipts from encamping-grounds under the Regulation of the district board;

[1] The words "Civil Service Regulations" were substituted for "Government Civil Pension and Leave Codes" in s. 10 by Reg. IX of 1893, *infra*.

[2] General Acts, Vol. II.

(*b*) as to the term of office of members, and the filling of casual vacancies;

(*c*) as to the conduct of proceedings of boards, including the minimum number of meetings to be held and the maximum interval between successive meetings, the mode of convening, and notice to be given of, meetings, the quorum necessary for the transaction of business at any meeting, the representation of any members at meetings by proxies appointed either from among the other members or otherwise, the appointment or election and the term of office of chairmen, vice-chairmen and secretaries, the giving of a casting vote in case of an equality of votes at a meeting, the formation of committees and the delegation of powers to them, and the recording of minutes of proceedings and the transmission of copies of those minutes to the Commissioner;

(*d*) as to the powers of boards to enter into contracts and transfer property, and as to the mode in which boards shall execute contracts;

(*e*) as to the authority on which money may be paid from the district fund;

(*f*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of a board, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*g*) as to the accounts to be kept, and as to the manner in which those accounts shall be audited and published;

(*h*) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which such estimates may be sanctioned;

(*i*) as to the returns, statements and reports to be submitted by boards;

(*j*) as to the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that area; and,

(*k*) generally, for the guidance of boards and officers of Government in all matters connected with the carrying out of this Regulation and for settling their relations to one another.

(2) The Chief Commissioner shall, before making any rules under this section, publish, in such manner as may in his opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(3) Every rule made under this section shall be published in such manner as the Chief Commissioner may, from time to time, prescribe in this behalf and such publication shall be conclusive evidence that the rule has been made as required by sub-section (2).

Power of boards to make rules.

23. The district board and, with the previous sanction of the district board, a local board, may, from time to time make [1] rules consistent with this Regulation, and with any rules made under this Regulation by the Chief Commissioner, as to—

(*a*) the time and place of its meetings;

(*b*) the conduct of proceedings at meetings and the adjournment of meetings;

(*c*) the division of duties among the members of the board, and the powers to be exercised by members to whom particular duties have been assigned;

(*d*) the persons by whom receipts may be granted on behalf of the board for money paid under this Regulation; and

(*e*) other similar matters.

REGULATION No. VIII OF 1887.

[THE AJMERE IRRIGATION REGULATION, 1887.]

A Regulation to declare the law relating to Irrigation from Tanks belonging to the Government in Ajmere.

(*Received the assent of the Governor General on the 8th August, 1887, and published in the Gazette of India, 1887, Part I, p. 103.*)

Preamble.

WHEREAS it is expedient to declare the law relating to irrigation from tanks to the exclusive use and control of the water whereof the Government is entitled under section 5 of the Ajmere Land and Revenue Regulation 1877 [2]: It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Irrigation Regulation, 1887.

(2) It extends to the territories now administered by the Chief Commissioner of Ajmere and subject to the provisions of the [3] Statute 33 Victoria, Chapter 3, section 1; and

(3) It shall come into force on such date [4] as the Chief Commissioner may, by notification in the official Gazette, appoint in this behalf.

[1] For rules of Procedure under s. 23 in conjunction with s. 22, *see* Ajmer Local Rules and Orders.

[2] *Supra.*

[3] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. It has been repealed and re enacted by the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61).

[4] The 1st October, 1887, *see* Gazette of India, 1887, Pt. II, p. 601.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context—

(*1*) "field" means an area bearing a separate number in the village map or khasra:

(*2*) "stream-embankment" means a dam across a river, stream or natural drainage-channel, and includes a dam known locally as "rappat":

(*3*) "field-embankment" means an embankment, whether made by raising the boundary of a field or otherwise, which retains, or is intended to retain surface drainage, and includes an embankment known locally as "nadi":

(*4*) "tank" means a tank constructed by the Government, and includes such stream-embankments and field-embankments as are maintained at the expense of the Government:

(*5*) "duct" includes any channel which is supplied with water from a tank and is maintained by the Government:

(*6*) "water-course" means a channel which is supplied with water from a tank or duct, but which is not maintained by the Government.

(*7*) "lift" includes any appliance used for the purpose of raising water from a tank, duct or water-course: and

(*8*) "water-revenue" means any sum payable to the Government for the supply or use of the water of a tank.

Assessment to water-revenue of irrigation due to percolation.

3. (*1*) The Chief Commissioner may, by order in writing, define, with respect to any tank specified in the order, the limits of the area in the vicinity thereof within which lands are to be liable to be assessed to water-revenue as being benefited by percolation from the tank.

(*2*) The order of the Chief Commissioner under sub-section (*1*) shall be conclusive proof of the existence of percolation.

(*3*) If a person makes a well, lift or other irrigation-work within the limits defined by the Chief Commissioner under sub-section (*1*), any land irrigated from the well, lift or work may be assessed to water-revenue as if it were irrigated from the tank.

Power to make rules.

4. (*1*) [1] [Subject to the control] of the Governor General in Council, the Chief Commissioner may [2] make rules to regulate the following matters, namely:—

(*a*) the rates at which water-revenue is to be assessed, and the mode of assessment;

(*b*) the collection, suspension, remission and refund of water-revenue;

(*c*) the distribution of water of tanks, and the decision of disputes with respect thereto;

[1] Substituted for "With the previous sanction" both by Act IV of 1914 and by Reg. II of 1914, *infra*.

[2] For irrigation rules under s. 4, *see* Ajmere Local Rules and Orders.

(*d*) the repairs of tanks, ducts and water-courses and of works connected therewith, and the incidence and payment of the cost of repairing water-courses, and of repairing such tanks and works connected therewith as in accordance with any engagement between the Government and any persons are required to be kept in repair by, or at the expense of, those persons;

(*e*) the requisition of, and the rates to be paid for, labour in cases of serious emergency threatening sudden and extensive public injury;

(*f*) the person by whom, and the time, place or manner at or in which anything for the doing of which provision is made in any rule under this Regulation is to be done;

(*g*) the powers, duties and proceedings of any officer or other person who by any such rule is empowered or required to take action in any matter;

(*h*) the cases in which, the officers to whom, and the conditions subject to which orders passed under any such rules are to be appealable; and

(*i*) the exercise of the right of the Government to the exclusive use and control of the water of rivers and streams flowing in natural channels and of natural collections of water, in so far as the Chief Commissioner may deem the exercise of that right to be necessary for the purposes of this Regulation.

(*2*) In making a rule under this section the Chief Commissioner may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and that a person convicted of a breach of the rule a second time shall, in addition to being liable to fine, be liable to be deprived of the supply of water for irrigation for the current harvest or for the current and next succeeding harvests.

Recovery of water-revenue.

5. If any water-revenue, or any other sum payable under any rule under this Regulation, and not being a fine, remains unpaid after the day on which it becomes due, it may be recovered from the persons primarily liable to pay it, or from his surety, if any, as if it were an arrear of land-revenue.

Jurisdiction of Civil Courts.

6. (*1*) A Civil Court may take cognizance of a suit to contest the title of the Government to the exclusive use and control of water to which section 5 of Ajmere Land and Revenue Regulation, 1877,[1] relates, and to which any provision of this Regulation or of any rule thereunder has been applied, but shall not in any such suit make a decree or order affecting the supply of water to any crop sown or growing at the time of the decree or order.

(*2*) Save as provided by sub-section (*1*), a Civil Court shall not take cognizance of any claim in respect of anything done in pursuance of this Regulation or of any rule thereunder.

[1] *Supra.*

THE AJMERE GOVERNMENT WARDS REGULATION, 1888.

[REG. I OF 1888.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.
4. Commissioner to be Court of Wards.
5. Landholder to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholder to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
10. Appointment, etc., of managers by Court of Wards.
11. Liabilities, etc., of managers and other servants of Court of Wards.
12. Power for Court of Wards to appoint guardians of certain Government wards.
13. General powers of Court of Wards.
14. Custody, education and residence of certain Government wards.
15. Allowance for Government ward and his family.
16. Duties of Court of Wards or manager.
17. Power of Court of Wards as to property of Government wards.
18. Manager or Court of Wards to be next friend or guardian in suits by or against Government wards.
19. Payment of costs.
20. Processes against Government wards to be served on next friend or guardian.
21. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
22. Disabilities of a Government ward.
23. Procedure when succession to Government ward's property is disputed.
24. Withdrawal of superintendence of Court of Wards.
25. Appeals.
26. Control of Chief Commissioner.

SECTIONS.

27. Exercise of discretion not to be questioned in Civil Courts.

28. Power for Chief Commissioner to make rules.

REGULATION No. I OF 1888.

[The Ajmere Government Wards Regulation, 1888.]

(*Received the assent of the Governor General on the 15th May, 1888, and published in the Gazette of India, 1888, Part I, p. 223.*)

WHEREAS it is expedient to make better provision for the superintendence of Government wards in Ajmere and Merwara. It is hereby enacted as follows :— Preamble.

1. (*1*) This Regulation may be called the Ajmere Government Wards Regulation, 1888. Title, extent and commencement.

(*2*) It extends to the territories administered by the Chief Commissioner of Ajmere to which the provisions of the Statute 33 Victoria,[1] Chapter 3, section 1, have been declared applicable; and

(*3*) It shall come into force on the first day of July, 1888.

I of **2.** (*1*) Part V of the Ajmere Land and Revenue Regulation, 1877,[2] the portion of clause (*b*) of section 2 of that Regulation beginning with the words "and includes" and ending with the words "under this Regulation", and section 14 of Act XL of 1858[3] (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) are hereby repealed: Repeal.

But all orders made and proceedings taken under any of those enactments shall, so far as may be, be deemed to have been made and taken under this Regulation.

3. In this Regulation, unless there is something repugnant in the subject or context,— Definitions.

t of (*1*) expressions used in the Ajmere Land and Revenue Regulation, 1877, [2] have the same meanings as they have in that Regulation.

(*2*) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may for the time being have the superintendence under this Regulation: and

(*3*) "landholder" means an istimrardar, bhumia, jagirdar; muafidar, malguzar or assignee of revenue, and includes any person having an interest

[1] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61).

[2] *Supra.*

[3] Act XL of 1858 has been repealed by the Guardian and Wards Act, 1890 (VIII of 1890), General Acts, IV.

in an estate subject to the payment of the local rate under the Ajmere Rural Boards Regulation, 1886.[1] Reg. V 1886.

Commissioner to be Court of Wards.

4. The Commissioner shall be the Court of Wards.

Landholder to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Superintendence by Court of Wards of property of disqualified landholder.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder who is disqualified to manage his own property.

Cases in which landholder to be deemed disqualified.

7. (*1*) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely :—

(*a*) minors who have not guardians appointed for their property by will ;

(*b*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs ; and

(*c*) persons declared by the Chief Commissioner to be incapable of managing their own property—

(i) owing to any physical defect or infirmity ;

(ii) owing to their having been convicted of a non-bailable offence and being unfitted by vice or bad character ;

(iii) owing to their being females ; or

(iv) on their own application.

(*2*) Every declaration made by the Chief Commissioner under clause (*c*) of sub-section (*1*) shall be final and shall not be questioned in any Civil Court.

Superintendence by urt of rds of on of qualified andholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also :

Provided that nothing in this section shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is living under his protection.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

9. When the Court of Wards has, with the previous sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder, or was not or is not a minor.

[1] *Supra.*

Appointment, etc., of managers by Court of Wards.

10. Subject to the rules made under this Regulation, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Regulation.

Liabilities, etc., of managers and other servants of Court of Wards.

11. (*1*) Every manager appointed by the Court of Wards shall,—

(*a*) unless he is the Collector or other revenue-officer, give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(*b*) unless he is the Collector, be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(*2*) Every manager or other servant of the Court of Wards shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code [1]; and, in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

Power for Court of Wards to appoint guardians of certain Government wards.

12. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are for the time being under its superintendence, and may control and remove guardians whom it has appointed.

General powers of Court of Wards.

13. Subject to the provisions of this Regulation and of the rules made under this Regulation, the Court of Wards—

(*a*) may, of itself or through the manager (if any) appointed by it under this Regulation, do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Regulation as the owner of the property, if not disqualified, might do for its care and management; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Regulation, do in respect of the person of any Government ward, whose person is for the time being under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education and residence of certain Government wards.

14. The Court of Wards may pass such orders as to it seem fit in respect of custody and residence of any Government ward whose person is for the time being under its superintendence and, when he is a minor, in respect of his education.

[1] General Acts, Vol. I.

Allowance for Government ward and his family.

15. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

Duties of Court of Wards or manager.

16. The Court of Wards or the manager (if any) appointed by it under this Regulation shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Power of Court of Wards as to property of Government wards.

17. (*1*) Subject to the control of the Chief Commissioner under this Regulation and to the restrictions specified in this section, the Court of Ward may do all such acts as it may judge to be best for the benefit of the property of any Government ward under its superintendence and for the advantage of the ward.

(*2*) The restrictions referred to in sub-section (*1*) are the following, namely :—

(*a*) without the previous sanction of the Chief Commissioner, the Court of Wards shall not let the property of the ward or any part thereof for a longer term than five years, or sell, mortgage, charge or exchange the property or any part thereof; and

(*b*) without the previous sanction of the Chief Commissioner [1] * * * * the Court of Wards shall not borrow any money whatever where the debts due from the ward, or the sums secured by incumbrances on his property, or such debts and sums combined exceed ten thousand rupees, or borrow any sum exceeding five thousand rupees in any other case.

Manager of Court of Wards to be next friend or guardian in suits by or against Government Wards.

18. In every suit brought by or against a Government ward the manager of the ward's property or, if there is no manager, the Court of Wards shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

19. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall pay the costs so far as the ward's property for the time being in its hands may be sufficient for the payment thereof.

Processes against Government wards to be served on next friend or guardian.

20. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

[1] The words "and of the Governor General in Council" were repealed by Reg. II of 1914, *infra*.

21. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards. Authority of Court of Wards required in case of suits brought on behalf of Government wards.

Provided as follows:—

(*a*) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(*b*) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

22. (*1*) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability. Disabilities of a Government ward.

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

23. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either make over the property or part thereof to any person claiming the same, or retain the superintendence thereof until one of the claimants has established his claim in a competent Civil Court. Procedure when succession to Government ward's property is disputed.

24. (*1*) The Court of Wards may, with the previous sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as— Withdrawal of superintendence of Court of Wards.

(*a*) in the case of a person disqualified under clause (*a*) of sub-section (*1*) of section 7, he attains his majority;

(*b*) in the case of a person disqualified under clause (*b*) of that sub-section, he ceases to be of unsound mind and incapable of managing his affairs; and

(*c*) in the case of a person disqualified under sub-clause (*i*) of clause (*c*) of that sub-section, his physical defect or infirmity is removed or ceases.

(*2*) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (*a*) or from any property under clause (*c*), of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

25. An appeal shall lie from every order of the Court of Wards under this Regulation to the Chief Commissioner. Appeals.

or included as part of any village or estate at the last land-revenue settlement, or assigned or permanently allotted to any village or estate by whatever name it may be locally known or described. Every estate-common so owned, assigned or included or allotted is said to "belong" to such estate or village; and every person entitled to the beneficial use or enjoyment of such land in any village or estate is called a "commoner":

a "majority of commoners" means in the case of proprietors who pay land-revenue, or who would pay land-revenue but for an assignment of the same, such number as together pay (or would pay) three-fifths of the total assessment on the estate or village; and, in the case of tenants under an immediate proprietor other than the Government, it means such number as together hold more than half the total area of cultivated land.

CHAPTER II.

PROTECTION OF ESTATE-COMMONS.

Power to apply Regulation VI of 1874 to estate-commons.

3. The Local Government, on the application, through the Collector, of the sole proprietor or a majority of the commoners of any estate-common, may, by notification in the local official Gazette,[1] apply thereto or to any portion thereof all or any of the provisions of the Ajmere Forest Regulation, Reg. VI of 1874,[2] for the protection of State forests; and may at any time cancel any such notification.

Nomination or election of Forest-officer.

4. The sole proprietor or a majority of the commoners of an estate-common or portion of an estate-common under such protection as aforesaid may nominate or elect, subject to the approval of the Collector, any person to be the Forest-officer in charge thereof, and such officer may be invested by the Local Government with all or any of the powers of a Forest-officer under the Ajmere Forest Regulation, 1874,[2] subject to such control as it may think fit.

Power to make rules.

5. The Local Government may, on the application, through the Collector, of the sole proprietor or a majority of the commoners of any estate-common not under such protection as aforesaid, by notification in the local official Gazette, make rules for the preservation of all or any of the trees growing on such estate-common or any part thereof, and may in like manner direct that the breach of any such rules shall be punishable with fine, which may extend to fifty rupees.

[1] For notification applying the Ajmere Forest Regulation, 1874 (Regulation VI of 1874), to certain private forests for a period of 10 years, *see* Gazette of India, 1894, Pt. II, p. 668.

[2] *Supra.*

REGULATION No. IX OF 1893.

[THE AJMERE AMENDING REGULATION, 1893.]

A Regulation * * * * *[1] to amend certain *[1] Enactments apply to Ajmere and Merwara.

(*Received the assent of the Governor General on the 16th August, 1893, and published in the Gazette of India, 1893, Part I, p. 481.*)

* * * * * * * * *[1]

*[1] Whereas it is *[1] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Regulation;

It is hereby enacted as follows:—

1. (*1*) This Regulation may be called the Ajmere * *[2] Amending Regulation, 1893. Title, extent and commencement.

(*2*) It extends to the territories administered by the Chief Commissioner of Ajmere and subject to the provisions of the Statute 33 Victoria,[3] Chapter 3, section 1; and

(*3*) It shall come into force at once.

2. (*1*) * * * * * * *[4]

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof. Enactments in schedules amended.

3. [*Savings.*] *Rep. Act I of 1903.*

THE FIRST SCHEDULE.

(*Repeals.*)

[*Rep. Act I of 1903.*]

"other" in the
at the beginning
by the Repealing

[3] The Government of India Act, 1870, *see* Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo., 5, c. 61).

[4] Sub-s. (*1*) of s. 2 relating to the repeal of enactments was repealed by the Repealing and Amending Act, 1903 (I of 1903).

THE SECOND SCHEDULE.

Regulations made under the Statute 33 Victoria, Chapter 3,

1	2	3	4
Year.	No.	Title.	Amendment.
1877	I	[1] Ajmere Courts Regulation, 1877.	In section 12, *for* sections twenty-three and thirty-three *read* section twenty-three. In section 23, *for* the proviso, *read* Provided that references under Chapter XLVI of the Code of Civil Procedure or under section 11 of the Provincial Small Cause Courts Act, 1887, shall be made, not to the Chief Commissioner, but to the High Court of Judicature for the North Western Provinces.
„	II	[1] Ajmer Land and Revenue Regulation, 1877.	In sections 112 and 113, *for* Rajputana *read* Official.
1886	V	[1] Ajmer Municipalities Regulation, 1886.	In section 8, clause (*c*), *for* clauses (*a*) and (*b*) *read* clause (*a*). In sections 37 and 38, *for* Government Civil Pension and Leave Codes *and* in section 38 *for* Government Civil Pension Code, *read* Civil Service Regulations.
„	VI	[1] Ajmer Rural Boards Regulation, 1886.	In section 15 and 16, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.

REGULATION No. IV OF 1895.

[THE AJMERE VILLAGE SANITATION REGULATION, 1895.]

A Regulation to make better provision for sanitation in villages in Ajmere and Merwara.

(Received the assent of the Governor General on the 28th August, 1895, and published in the Gazette of India on the 31st idem.)

WHEREAS it is expedient to make better provision for sanitation in villages in Ajmere and Merwara; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Village Sanitation Regulation, 1895.

(*2*) It extends to the territories administered by the Chief Commissioner of Ajmere to which the provisions of the Statute 33 Victoria,[2] Chapter 3, section 1, have been declared applicable; and

[1] *Supra.*

[2] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61).

(3) It shall come into force at once.

2. In this Regulation, unless there is something repugnant in the subject or context,— Definitions.

(1) "village" means an inhabited site, but does not include a municipality or cantonment; and

(2) "well" means a well the water of which is habitually used for drinking purposes by all or some of the inhabitants of a village.

3. (1) The Chief Commissioner may, * * * * *[1] make rules[2] to— Power to make rules regarding conservancy etc.

(a) regulate the conservancy of villages;

(b) provide for the protection and periodical examination of wells and the water-supply in villages;

(c) define and prohibit public nuisances in villages; and

(d) improve the sanitation of villages in other similar respects.

(2) The power to make rules under this Regulation is subject to the condition of the rules being made after previous publication, and of their not taking effect until they have been published in the official Gazette and in such other manner as the Chief Commissioner may direct.

4. (1) In making any rule under this Regulation the Chief Commissioner may direct that a breach thereof shall be punishable with fine which may extend to ten rupees and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues. Penalty for breach of rules.

(2) All fines recovered under this Regulation shall be applied as the Chief Commissioner shall, from time to time, direct.

REGULATION No. I OF 1905.

[THE AJMERE MUNICIPALITIES (AMENDMENT) REGULATION, 1905.]

A Regulation to amend the Ajmere Municipalities Regulation, 1886.

(Received the assent of the Governor General on the 14th April, 1905; and published in the Gazette of India on the 22nd idem.)

7 of WHEREAS it is expedient to amend the Ajmer Municipalities Regulation, 1886;[3] It is hereby enacted as follows:—

1. This Regulation may be called the Ajmere Municipalities (Amendment) Regulation, 1905. Short title.

[1] The words "with the previous sanction of the Governor General in Council" were repealed by Reg. 2 of 1914, *infra*.

[2] For rules under s. 3, *see* Ajmere Local Rules and Orders.

[3] *Supra*.

Repeal of part of section 128, Regulation V, 1886.

2. In section 128 of the Ajmere Municipalities Regulation, 1886,[1] the words " at more than a walking pace " are hereby repealed. Reg. V of 1886.

REGULATION No. V OF 1907.

[THE AJMERE LAND AND REVENUE (AMENDMENT) REGULATION, 1907.]

A Regulation further to amend the Ajmere Land and Revenue Regulation, 1877.

(*Received the assent of the Governor General on the 21st August, 1907*; *and published in the Gazette of India on the 24th August, 1907.*)

WHEREAS it is expedient further to amend the Ajmere Land and Revenue Regulation, 1877 [1]; It is hereby enacted as follows :— Reg. II of 1877.

Short title.

1. This Regulation may be called the Ajmere Land and Revenue (Amendment) Regulation, 1907.

Substitution of new section 3, Regulation II of 1877.

2. For section 3 of the Ajmere Land and Revenue Regulation, 1877,[1] the following shall be substituted, namely :— Reg. II of 1877.

[*Vide* pp. 131-132, *supra.*]

REGULATION No. VII OF 1907.

[THE AJMERE COURTS (AMENDMENT) REGULATION 1907.]

A Regulation further to amend the Ajmere Courts Regulation, 1877.

(*Received the assent of the Governor General on the 5th November, 1907*; *and published in the Gazette of India on the 9th idem.*)

WHEREAS it is expedient further to amend the Ajmere Courts Regulation, 1877 [1]; It is hereby enacted as follows :— Reg. I of 1877.

Short title.

1. This Regulation may be called the Ajmere Courts (Amendment) Regulation, 1907.

Addition of new section after section 4, Regulation I, 1877.

2. After section 4 of the Ajmere Courts Regulation, 1877, the following section shall be added, namely :— Reg. I of 1877.

[*Vide* p. 117, *supra.*]

[1] *Supra.*

REGULATION No. I OF 1910.

[THE AJMERE COURTS (AMENDMENT) REGULATION, 1910.]

A Regulation further to amend the Ajmere Courts Regulation, 1877.

(*Received the assent of the Governor General on the 10th February, 1910; and published in the Gazette of India on the 12th idem.*)

WHEREAS it is expedient further to amend the Ajmere Courts Regulation, 1877 [1]; It is hereby enacted as follows:—

Short title.

1. This Regulation may be called the Ajmere Courts (Amendment) Regulation, 1910.

Amendment of certain sections of Regulation I, 1877.

2. In sections 5, 11, 123, 14 (*a*), 29 and 30 of the Ajmere Courts Regulation, 1877 [1], the words "with the previous sanction of the Governor General in Council", and in section 11 of the same Regulation, the words "with like sanction", shall be omitted.

REGULATION No. II OF 1911.

[THE AJMERE TALUKDARS LOAN REGULATION, 1911.]

A Regulation to provide for the grant of loans to indebted Talukdars in Ajmere.

(*Received the assent of the Governor General on the 25th May, 1911; and published in the Gazette of India on the 27th idem.*)

WHEREAS it is expedient to provide for the grant of loans to indebted Talukdars in Ajmere; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Talukdars Loan Regulation, 1911.

(*2*) It extends to the territories for the time being administered by the Chief Commissioner of Ajmer.

Definition.

2. In this Regulation, unless there is anything repugnant in the subject or context, "talukdar" includes istimrardar, jagirdar, and bhumia.

Application for loan.

3. Any talukdar may apply in writing to the Commissioner stating that he is subject to or that his immoveable property is charged with, debts or liabilities other than debts due or liabilities incurred to Government, and requesting that he may be granted a loan in accordance with the provisions of this Regulation.

[1] *Supra.*

Contents of application.

4. The application shall contain a declaration that the applicant has made himself acquainted with the provisions of this Regulation and agrees to abide by them and by the rules made thereunder, and such other particulars as the Chief Commissioner may by rules prescribe, and shall be verified by the applicant in manner required by law for the verification of plaints.

Procedure on application.

5. The Commissioner, on receipt of an application under section 3, shall forward the same to the Chief Commissioner. The Chief Commissioner may—

(*a*) summarily reject such an application, or

(*b*) direct that the Commissioner proceed to take further action under this Regulation.

Notice to submit claims.

6. (*1*) The Commissioner, on receipt of an order from the Chief Commissioner under section 5, clause (*b*), shall cause to be published in the Gazette of India, and in such other manner as the Chief Commissioner may by general or special order direct, a notice in English and [1] [shall also cause to be published, in such manner as the Chief Commissioner may direct, the same notice] in the vernacular, declaring that the applicant has applied for a loan under this Regulation, reciting the provisions of this section and sections 7, 8, 16, 17 and 18, and calling upon all persons having claims against the applicant or his immoveable property to submit a statement of the same in writing within six months from the date of the publication of the notice aforesaid.

(*2*) Every claim against the applicant or his immoveable property (other than a claim on the part of the Government) not submitted to the Commissioner in compliance with the provisions of sub-section (*1*) shall, save in the cases provided for by sections 6 and 13 of the Indian Limitation Act, 1908,[2] IX of 1908 be deemed for all purposes and on all occasions to have been duly discharged unless in any suit or proceeding instituted by the claimant or by any person claiming under him in respect of any such claim, it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (*1*).

(*3*) Every claim admitted by the Court under the provisions of sub-section (*2*) shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest after the expiry of six months from the date of the publication of the notice under sub-section (*1*).

Effect of publication of notice to submit claims.

7. With effect from the date of the publication of a notice under section 6, sub-section (*1*), the following consequences shall ensue, namely :—

(*a*) the applicant shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to

[1] Substituted for "also" by Reg. II of 1914, *infra*.
[2] General Acts, Vol. VI.

enter into a contract which may involve him in any pecuniary liability; and

(*b*) all suits and proceedings in any Civil Court in respect of any claim against the applicant shall be stayed, and no fresh suit or proceeding shall be instituted in respect of any such claim in any Civil Court.

Saving of certain debts.

8. Nothing in section 7, clause (*a*) shall—

(*a*) apply to debts due or liabilities incurred to the Government.

(*b*) apply to debts or liabilities which are incurred for necessaries for the maintenance of the applicant or his family or for the due observance of funeral and other ceremonies to the extent approved by the Commissioner, or

(*c*) affect the capacity of the applicant to enter into a contract of marriage:

Provided that he shall not incur in connection with such contract of marriage any pecuniary liability except such as the Commissioner, having regard to the personal law to which he is subject, and his rank and circumstances, may in writing declare to be reasonable.

Particulars of claim to be furnished.

9. Every claimant submitting his claim in compliance with the provisions of section 6, shall furnish, together with his written statement of claim, full particulars thereof, and shall produce all documents on which he relies to support his claim.

Statement of claims and assets.

10. When the period for the submission of statements of claims under section 6 has expired, the Commissioner shall prepare—

(*a*) a schedule of such claims, and

(*b*) a statement showing the assets of the applicant, exclusive of the property mentioned in the proviso to section 60 of the Code of Civil Procedure, 1908[1].

Composition of claims.

11. The Commissioner may make to any claimant a proposal in writing for the reduction of his claims; and if such proposal, or any modification thereof, is accepted by the claimant, and his acceptance is recorded or attested by the Commissioner, such acceptance shall, in the event of a loan being granted under this Regulation, be conclusively binding upon the claimant.

[1] General Acts, Vol. VI.

Report by Commissioner.

12. When the Commissioner has completed the consideration of all claims submitted to him, he shall submit to the Chief Commissioner the schedule and statement referred to in section 10, and a report setting out in detail the claims against the applicant which he considers should be met from any loan sanctioned under this Regulation, together with a statement of any composition which has been agreed to by the claimants or by any of them.

Final disposal of the application.

13. (*1*) The Chief Commissioner, on receipt of a report under section 12, shall either—

(*a*) pass an order rejecting the application, or

(*b*) grant a loan to the applicant on such conditions regarding repayment and rate of interest as he may prescribe.

(*2*) If an order is passed under sub-section (*1*) granting a loan, such order shall specify the liabilities to be discharged by means of the loan.

Effect of stay of proceedings.

14. When an order has been passed under section 13 rejecting an application * * * * * *[2] the following consequences shall ensue, namely :—

(*a*) all rights and remedies shall revive to any claimants who have accepted a proposal for the reduction of their claims under the provisions of section 11 as if such agreement had not been entered into ; and

(*b*) in computing the period of limitation applicable to any suit or other proceeding for the recovery of claims due from the applicant, the period from the date of the publication of the notice under section 6, sub-section (*1*), to the date of the order rejecting the application, shall be excluded.

Procedure on grant of loan.

15. (*1*) When a loan is granted under section 13, the Commissioner shall forthwith discharge therefrom the liabilities specified under section 13, sub-section (*2*), and shall notify the date of such discharge in the Gazette of India.

(*2*) All the rights and remedies of claimants in respect of claims duly submitted under section 6, sub-section (*1*) which are not discharged by the Commissioner under sub-section (*1*) shall revive as if no action had been taken under this Regulation ; and in computing the period of limitation applicable to any suit or other proceeding for the recovery of such claims the period from the date of publication of the notice under section 6, sub-section (*1*), to the

[2] Words repealed by Reg. II of 1914 (*infra*) are omitted.

date of publication of the notification under sub-section (*1*), shall be excluded.

No suit to be brought on subsequent promise.

16. (*1*) No suit shall be brought in any Civil Court against any talukdar upon any promise made after he has repaid a loan under this Regulation, to pay any debt contracted during the period between the grant and the repayment of such loan, or upon any ratification made after such loan has been repaid of any promise or contract made during such period, whether there is or is not any new consideration for such promise or ratification.

(*2*) Nothing in sub-section (*1*) shall apply to the debts or liabilities specified in section 8.

Procedure on breach of conditions or of section 7 (*a*).

17. (*1*) If any talukdar to whom a loan has been granted under this Regulation—

(*a*) infringes any condition imposed under section 13, sub-section (*1*), clause (*b*), or

(*b*) attempts to do any act which, under section 7, clause (*a*) he is incompetent to do,

the Chief Commissioner may by order in writing declare such talukdar to be disqualified from managing his own property and such talukdar shall be deemed to be a landholder who is disqualified to manage his own property within the meaning of the [1]Ajmere Government Wards Regulation, 1888, and the Court of Wards shall thereupon assume the superintendence of the property of such talukdar.

(*2*) The Court of Wards shall withdraw its superintendence from any property of which it has assumed superintendence under sub-section (*1*) as soon as all loans granted to such talukdar under the provisions of this Regulation have been repaid to Government with the interest thereon.

Termination of disability.

18. In each of the following cases, namely :—

(*a*) when a loan made under section 13 has been repaid to Government with the interest thereon, or

(*b*) when the amount so lent with interest has been recovered by the management of the property under section 17, or

(*c*) when an order rejecting an application has been passed under 13,

the Commissioner shall notify, in the Gazette of India and in such other manner as the Chief Commissioner may, by special or general order, direct, that the talukdar has ceased to be subject to the disabilities mentioned in section 7, with effect from the date of the publication of such notification.

[1] *Supra.*

Death of applicant.

19. If an applicant, with regard to whom a notice has been published under section 6, dies before a notification under section 18 has been published—

(*a*) the proceedings under this Regulation shall be continued as nearly as possible in all respects as if he were still living,

(*b*) any person succeeding to the whole or any portion of his rights in land shall become subject in respect of those rights to the disabilities imposed by section 7, and shall continue so subject as if he had been the applicant.

Power to make rules.

20. (*1*) The Chief Commissioner, subject to the control of the Governor-General in Council, may make rules for the purpose of carrying into effect the provisions of this Regulation.

(*2*) All rules made under this Regulation shall be published in the Gazette of Ind and on such publication shall have effect as if they were enacted egulation.

No suit, prosecution or other proceeding shall be entertained in any gainst any public servant for anything done by him in pursuance or n of this Regulation or done in good faith and in intended execution egulation.

REGULATION No. II OF 1914.

E AJMERE REPEALING AND AMENDING REGULATION, 1914.]

ion to amend certain enactments in force in Ajmer-Merwara.

ssent of the Governor General on the 5th February, 1914; and' ished in the Gazette of India on the 7th idem.)

order to give effect to administrative changes, it is: rtain amendments should be made in the enactments edule to this Regulation; It is hereby enacted as:

n may be called the Ajmere Repealing and Amending

actments specified in Part I of the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

ments.

(*2*) The enactments specified in Part II of the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE

PART I—AMENDMENTS.

[*See section 2 (1).*]

1	2	3	4
Year	No.	Subject or short title.	Amendments.
1877	I	The Ajmere Courts Regulation, 1877.	1. In section 4, after the words "the Court of the Commissioner" the words "and the Court of the Additional District Judge" shall be added. 2. After section 4-A, the following section shall be added, namely :— [*Vide* p. 117, *supra*.] 3. After section 23, the following section shall be added, namely :— [*Vide* p. 121, *supra*.] 4. In section 24, after the words "the Commissioner," where these words occur for the second time, the words "and of the exercisu . or dutie. 5. In section 28, clause (*d*), after the words "Letters Patent" the words "or an advocate enrolled under section 41 of the Legal Practitioners Act, 1879, or a pleader enrolled in the Chief Court of the Punjab" shall be inserted and for the word "when" the words "provided that" shall be substituted and for the words "or attorney", where these words occur for the second time the words "attorney or pleader" shall be substituted. 6. For section 39, the following section shall be substituted, namely:— [*Vide* p. 124, *supra*.] 7. After section 39, the following section shall be inserted, namely :— [*Vide* p. 124, *supra*.]

THE SCHEDULE.—*contd.*

PART I—AMENDMENTS—*contd.*

[*See section 2 (1).*]

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
1877	II	The Ajmere Land and Revenue Regulation, 1877.	In section 2, clause (*b*), after the word "in" the words "the whole or" shall be inserted. In section 114, clause (*b*), for the words "the Collector" the words "a Collector other than the Commissioner," shall be substituted.
"	III	The Ajmere Laws Regulation, 1877.	In sections 20, 22, 25, 26, 27, 28 and 34 for the words "Magistrate of the District" wherever they occur, the words "District Magistrate" shall be substituted. In section 21, for the word "Commissioner" the words "Chief Commissioner" shall be substituted. In section 34, for the word "Commissioner" the words "Chief Commissioner" shall be substituted. In section 40, after clause (*d*), the following shall be inserted namely :— "(*e*) the registration of cattle."
1886	V	The Ajmere Municipalities Regulation, 1886.	In section 7, sub-section (*1*), for the words "The Magistrate of the District within which any Municipality is situate" the words "The District Magistrate" shall be substituted. In section 51, sub-section (*1*), for the words "unless he is a member of the Committee, in which case the appeal shall lie to the Commissioner or other officer empowered by the Chief Commissioner in this behalf" the words "or other officer empowered by the Chief Commissioner in this behalf unless the District Magistrate is a member of the Committee, in which case the appeal shall lie to the Chief Commissioner" shall be substituted.

THE SCHEDULE—*contd.*

PART I—AMENDMENTS—*concld.*

[*See section 2 (1).*]

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
1886	V	The Ajmere Municipalities Regulation, 1886—*contd.*	In section 120, sub-section (*1*), and in section 142, sub-section (*3*), for the word "Commissioner" the words "Chief Commissioner" shall be substituted.
1887	VIII	The Ajmere Irrigation Regulation, 1887.	In section 4, sub-section (*1*), for the words "with the previous sanction" the words "subject to the control" shall be substituted.
1911	II	The Ajmere Talukdars Loan Regulation, 1911.	In section 6, sub-section (*1*), for the word "also" the words "shall also cause to be published, in such manner as the Chief Commissioner may direct, the same notice" shall be substituted.

PART II.—REPEALS.

[*See section 2 (2).*]

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1877	I	The Ajmere Courts Regulation, 1877.	The second paragraph of section 25. Section 41.
,,	II	The Ajmere Land and Revenue Regulation, 1877.	In section 2, clause (c), sub-clause (3), the words:— "subject to the control of the Governor General in Council." In sections 77 and 93 the words:— "with the previous sanction of the Commissioner."

THE SCHEDULE—*contd.*

PART II.—REPEALS—*contd.*

[See section 2 (2).]

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1877	III	The Ajmere Laws Regulation, 1877.	In section 27 the words :— "with the previous sanction of the Commissioner, where the amount of the award does not exceed one thousand rupees, and with the previous sanction of the Chief Commissioner, where it exceeds that sum." In section 35 the words :— "with the sanction of the Commissioner." In section 38 the words :— "with the previous sanction of the Governor General in Council." In section 42 the words :— "sanctioned by the Governor General in Council and" and the words :— "sanctioned and"
1886	V	The Ajmere Municipalities Regulation, 1886.	In section 69, sub-section (1), clause (b), the words "and such sum as may be required for the maintenance of a police establishment under Chapter V." Sections 73, 74, 75, 76 and 77.

THE SCHEDULE.—*concld.*

PART II.—REPEALS—*concld.*

[*See section 2 (2).*]

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1886	V	The Ajmere Municipalities Regulation, 1886—*contd.*	In section 140, and in section 141, sub-sections (*1*) and (*2*), the words :— " Commissioner or the ". In section 141, sub-section (*2*), the words :— " if the Magistrate to the Commissioner, if the Commissioner ".
1888	I	The Ajmere Government Wards Regulation, 1888	In section 17, sub-section (*2*), clause (*b*), the words :— " and of the Governor General in Council. " In section 28, sub-section (*2*), the words and letter " clause (*c*) of " and the words :— " with the previous sanction of the Governor General in Council." Sub-section (*3*) of section 28.
1895	IV	The Ajmere Village Sanitation Regulation, 1895.	In section 3, sub-section (*1*), the words :— " with the previous sanction of the Governor General in Council."
1911	II	The Ajmere Talukdars Loan Regulation, 1911.	In section 14, the words :— " or when an application is withdrawn under section 19 before orders are passed under section 13."

REGULATION No. III OF 1914.

[THE AJMERE ALIENATION OF LAND REGULATION, 1914.]

A Regulation to provide for the control of the alienation of agricultural land in Ajmer-Merwara.

[*Received the assent of the Governor General on the 19th February, 1914, and published in the* Gazette of India *on the 21st idem.*]

WHEREAS it is expedient to provide for the control of the alienation of agricultural land in Ajmer-Merwara; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title, extent, and commencement.

1. (*1*) This Regulation may be called the Ajmer Alienation of Land Regulation, 1914.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of Ajmer-Merwara.

(*3*) It shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context—

(*1*) The expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture and includes—

(*a*) the site of buildings and other structures on such land;

(*b*) a share in the profits of an estate or holding;

(*c*) any dues or any fixed percentage of the land revenue payable by an inferior landowner to a superior landowner;

(*d*) a right to receive rent;

(*e*) any right to water enjoyed by the owner or occupier of land as such; and

(*f*) any right of occupancy.

(*2*) The expression "permanent alienation" includes sales, exchanges, gifts, wills, and grants of occupancy rights.

(*3*) The expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage money or partly in lieu of interest and partly in payment of the mortgage money: and the expression "conditional sale" includes any agreement whereby in default of

payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee.

(*4*) "Collector" means any officer appointed by the Chief Commissioner to discharge the functions of a Collector under this Regulation in any part of Ajmer-Merwara.

(*5*) "Rent" means whatever is, in cash or in kind to be paid or delivered by a tenant for land held by him, or on account of groves, tanks, rights of pasturage, or of gathering produce, forest rights, fisheries, the use of water for irrigation, or the like.

(*6*) "Tenant" means a person who holds land under another person and is or but for a special contract would be liable to pay rent for that land to that other person, but it does not include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred or an estate or holding has been let in farm for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it.

(*7*) "Land revenue" means land revenue assessed under any law for the time being in force or assessable under the Ajmer Land and Revenue Regulation, 1877,[1] and includes—

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment.

(*8*) "Revenue officer" has the same meaning as in the Ajmer Land and Revenue Regulation, 1877[1].

(*9*) "Legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent.

(*10*) "Agricultural year" means the year commencing on the 1st June or on such other date as the Chief Commissioner may by notification appoint.

CHAPTER II.

Permanent alienation of land.

3. (*1*) No alienation of land shall take effect as a permanent alienation unless and until sanction is given thereto by the Collector: Sanction of Collector required to permanent alienation.

[1] *Supra.*

Provided that such sanction may be given after the act of alienation is otherwise completed.

(2) The Collector shall inquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (*1*).

Saving of rights in land alienated.

4. When a Collector sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption.

CHAPTER III.

Temporary alienations of land.

Forms of mortgage permitted in certain cases.

5. (*1*) No land shall be mortgaged except in some one or other of the following forms :—

(*a*) in the form of a usufructuary mortgage by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor ; or

(*b*) in the form of a mortgage without possession subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract the mortgagee may apply to the Collector to place him in possession for such term not exceeding twenty years as the Collector may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Collector thinks reasonable ; or

(*c*) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant for such term as may be agreed upon, subject to the condition that if the mortgagor is ejected, or surrenders, or abandons cultivating occupancy of the land the mortgage shall take effect as a usufructuary mortgage in form (*a*) for such term not exceeding twenty years from the date of the ejectment, surrender or abandonment, and for such sum of money as the Collector thinks reasonable ; or

(*d*) in any form which the Chief Commissioner may, by general or special order, permit to be used.

(2) The Collector, if he accepts the application of a mortgagee under sub-section (*1*) (*b*), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession.

Rules applying to permitted mortgages.

6. In the case of mortgages made under section 5—

(*1*) No interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;

(*2*) if the mortgage is in form (*a*) or form (*b*) then at the end of such period of possession the mortgage debt shall be extinguished;

(*3*) the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage debt, or in the case of a mortgage in form (*a*) or form (*b*), of such proportion of the mortgage debt as the Collector determines to be equitable;

(*4*) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage money; and

(*5*) if a mortgagor who has applied to the Collector under sub-section (*3*) proves to the satisfaction of the Collector that he has paid the mortgage debt or such proportion of the mortgage debt as the Collector has determined to be equitable, or deposits with the Collector the amount of such mortgage debt or of such proportion thereof, the redemption of the land shall be deemed to have taken place, and the Collector shall have power to eject the mortgagee, if in possession and as against the mortgagee to place the mortgagor in possession.

Conditions in permitted mortgages.

7. (*1*) In a mortgage made under section 5 the following conditions may be added by agreement between the parties:—

(*a*) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;

(*b*) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land; and

(*c*) any condition which the Chief Commissioner, by general or special order, may declare to be admissible.

(2) In mortgages made under section 5, any condition not permitted by or under this Regulation shall be null and void.

Power to revise mortgages made in form not permitted and mortgages by conditional sale.

8. (*1*) If any land is mortgaged in any manner or form not permitted under this Regulation, the Collector shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Regulation as the mortgagee appears to him to be equitably entitled to claim.

(2) If before the commencement of this Regulation any land has been mortgaged in any form containing a condition intended to operate by way of conditional sale, the Collector shall have authority, at any time during the currency of the mortgage, to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept, in lieu of the said mortgage, a mortgage which may at the mortgagee's option be either in form (*a*) or in form (*b*) as provided by section 5 and which shall be made for such period not exceeding the period permitted by the said section, and for such sum of money as the Collector considers to be equitable.

(3) If proceedings for the enforcement of the condition intended to operate by way of conditional sale are instituted, or are pending at the commencement of this Regulation in any Civil Court, or if a suit is instituted in any Civil Court, on a mortgage to which sub-section (1) or sub-section (2) applies, the Court shall, if it finds that the mortgage is enforceable or that the mortgagee is entitled to a decree absolute for foreclosure, refer the case to the Collector with a view to the exercise of the power conferred by the sub-section applying thereto.

(4) When a mortgagee put to his election under sub-section (2) agrees to accept in lieu of his mortgage a mortgage in form (*a*) or in form (*b*) as permitted by section 5 for the period and for the sum of money considered by the Collector to be reasonable and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Collector shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Collector may, for any reason which he deems sufficient, set aside any *ex-parte* proceedings taken under this sub-section.

Future mortgage by way of conditional sale not permitted.

9. In any mortgage of land made after the commencement of this Regulation any condition which is intended to operate by way of conditional sale shall be null and void.

Leases and farms

10. Except with the sanction of the Chief Commissioner, given by general or special order, no land may be leased or farmed for a term exceeding twenty years, and any lease or farm made without the Chief Commissioner's sanction for a longer term than twenty years shall be deemed to be a lease or farm for the term permitted by this section.

Restriction on power to make further temporary alienation.

11. (1) During the currency of a mortgage made under section 5 in form (*a*) or form (*b*) or of a lease or farm under this Regulation, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall, except as provided in section 10, be deemed to be a temporary alienation for the term permitted by this section.

12. If a mortgagee, lessee, or farmer holding possession under a mortgage made under section 5, or under a lease or farm made under section 10 or under a mortgage, lease or farm made under section 11, remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Collector may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession. Ejectment of mortgagee, lessee or farmer remaining in possession after term.

CHAPTER IV.

General Provisions.

13. Any alienation of land which, in accordance with the provisions, of section 3, requires the sanction of the Collector in order that it may take effect as a permanent alienation, shall, until such sanction is given or if such sanction is refused, take effect as a usufructuary mortgage in form (*a*) permitted by section 5 for such term not exceeding twenty years and on such conditions as the Collector considers to be reasonable. Effect of permanent alienation made without sanction.

14. Every agreement which purports to alienate the produce of land or any part of or share in such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of the Collector is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year. Sanction of Collector required to certain alienations of, or charge on, produce of land.

15. (*1*) Except with the previous sanction of the Chief Commissioner, no land shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Regulation. Execution sale of land forbidden.

(2) Nothing in this section shall affect the right of Government to recover arrears of land revenue, or any dues which are recoverable as arrears of land revenue, in any manner permitted by law.

16. When a Civil Court passes a decree on a mortgage made before the commencement of this Regulation, not being a mortgage with a condition intended to operate by way of conditional sale, and such decree would, but for the provisions of section 15, be executed by sale of land, the Court shall transfer the execution of the decree to the Collector, who shall offer the decree-holder in full satisfaction of his decree a mortgage in form (*a*) or in form (*b*) of section 5 for such period not exceeding twenty years as the Collector considers reasonable. Transfer to Collector of decrees on certain mortgages.

17. Notwithstanding anything in the Indian Registration Act, 1908[1], or in any rules made under section 69 of that Act— Registration.

(*1*) an instrument which contravenes any provision of this Regulation shall not be admitted to registration;

[1] General Acts, Vol. VI.

(2) an instrument which records or gives effect to any transaction which requires the sanction of the Collector, shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

Record of rights and annual register.

18. (*1*) Where, by reason of any transaction which under this Regulation requires the sanction of the Collector, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land Revenue Act, 1887[1], as extended to Ajmer-Merwara, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record of rights or in any annual register until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Regulation. XVII of

(2) No right claimed by reason of any transaction or condition which is declared by this Regulation to be null and void shall be entered in the record of rights or in any annual rigister.

Application of the Ajmer Land and Revenue Regulation, 1877.

19. Subject to the provisions of this Regulation, the provisions of the Ajmer Land and Revenue Regulation, 1877[1], Parts I to IV inclusive, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Regulation. Reg. II of 1877.

Appearance of legal practitioners forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Regulation.

Jurisdiction ofCivil Courts excluded.

21. (*1*) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by the Regulation to dispose of.

(2) No Civil Court shall take cognizance of the manner in which the Local Government or any Revenue-officer exercises any power vested in it or in him by or under this Regulation.

Civil Court to send copy of decree or order to Collector.

22. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, 1908[2], or in any other Act or Regulation for the time being in force, every Civil Court which passes a decree or order involving the permanent alienation of any land shall send to the Collector a copy of such decree or order. V of 1908.

Action to be taken by Collector, when decree or order passed contrary to Regulation.

(2) When it appears to the Collector that any Civil Court has, at any time after this Regulation has come into force, passed a decree or order contrary to any of the provisions of this Regulation, the Collector may apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed, or in any other case to the Court of the Chief Commissioner. And when the Court finds that such decree or order is contrary to any of the provisions of this Regulation, it shall alter

[1] *Supra.*
[2] General Acts, Vol. VI.

it so as to make it consistent with this Regulation. Such application shall be made within two months of the date upon which the Collector is informed of such decree or order.

(*3*) When any such Appellate Court passes an order rejecting such application, the Collector may, within two months after the date upon which he is informed of such order, apply to the Court of the Chief Commissioner for revision thereof.

(*4*) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Collector.

(*5*) No stamp shall be required upon such applications, and the provisions of the Code of Civil Procedure, 1908[1], as regards appeals shall apply, so far as may be, to the procedure of the Court, on receipt of such application:

Provided that no appearance by or on behalf of the Collector shall be deemed necessary for the disposal of the application.

Exercise of powers of Collector.

23. The powers conferred by this Regulation upon the Collector may be exercised by a Revenue-officer of higher rank or by any officer authorized by the Chief Commissioner in this behalf.

Exemption.

24. The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, exempt any person or class of persons from the operation of this Regulation or of any of the provisions thereof.

Power to make rules.

25. (*1*) The Chief Commissioner may, subject to the control of the Governor General in Council, make rules for carrying into effect the purposes of this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Chief Commissioner may make rules prescribing the Revenue-Officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.

REGULATION No. I OF 1915.

[THE EXCISE REGULATION, 1915.]

A Regulation to consolidate and amend the Excise Law in force in Ajmer-Merwara [Coorg and British Baluchistan].

(*Received the assent of the Governor General on the 6th January, 1915*; *published in the* Gazette of India *on the 16th January, 1915.*)

WHEREAS it is expedient to consolidate and amend the law in the provinces of Ajmer-Merwara [Coorg and British Baluchistan], relating to the import,

[1] General Acts, Vol. VI.

export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Excise Regulation, 1915.

(*2*) It extends to the provinces of Ajmer-Merwara [Coorg and British Baluchistan]:

[Provided that the provisions of this Regulation relating to *tari* shall not apply to the province of British Baluchistan;] and

(*3*) It shall come into force on such date[1] as the Chief Commissioner may, by notification, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(*1*) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt:

(*2*) to "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and "bottling" includes re-bottling:

(*3*) "Excise Commissioner" means the officer appointed by the Chief Commissioner under section 7, clause (*a*):

(*4*) "denatured" means rendered unfit for human consumption in such manner as the Chief Commissioner may, by notification, prescribe:

(*5*) "excisable article" means any liquor or intoxicating drug as defined by or under this Regulation:

(*6*) "Excise-officer" means a Collector or any officer or other person appointed or invested with powers under section 7:

(*7*) "excise-revenue" means revenue derived or derivable from any duty, fee, tax, penalty payment (other than a fine imposed by a Court of law) or confiscation imposed or ordered under the provisions of this Regulation, or of any other law for the time being in force relating to liquor or intoxicating drugs:

(*8*) "export" means to take out of the province:

(*9*) "hemp plant" means the plant known as *Cannabis sativa*:

(*10*) "import" means to bring into the province:

[Provided that import into and export from British Baluchistan from and to the territories administered by the Agent to the Governor General in Baluchistan as such Agent shall be deemed to be transport:]

(*11*) "intoxicating drug" means:—

(*a*) the leaves and flowering tops of the hemp plant and *ganja*, *bhang*, *charas* and every similar preparation made therefrom;

(*b*) the leaves of the coca plant (*Erythroxylum coca*), and cocaine and every other preparation and derivative of the said plant;

[1] The 15th February 1915 *see* Gazette of India, 1915, Pt. II, p. 327.

(*c*) any other intoxicating drink or substance which the Chief Commissioner may, by notification, specify in this behalf; and

(*d*) every preparation or admixture of any article referred to in sub-clauses (*a*), (*b*) and (*c*);

but does not include opium or anything which is included in "opium" as defined in the Opium Act, 1878[1];

(*12*) "liquor" means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquid consisting of or containing alcohol, and any substance which the Chief Commissioner may, by notification, declare to be liquor for the purposes of this Regulation:

(*13*) "manufacture" includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor:

(*14*) "notification" means notification in the local official Gazette:

(*15*) "place" includes house, building, shop, booth, tent, vessel, raft and vehicle:

(*16*) expressions referring to "sale" include any transfer otherwise than by way of gift:

(*17*) "spirit" means any liquor containing alcohol obtained by distillation whether it is denatured or not:

(*18*) "*tari*" means fermented or unfermented juice drawn from any kind of palm tree: and

(*19*) "transport" means to move from one place to another within the province.

Provision supplemental to the definition of "intoxicating drug."

3. The Chief Commissioner may, by notification, declare what shall be deemed to be *ganja*, *bhang* or *charas*.

Power to declare what shall be deemed to be "country liquor" and "foreign liquor," respectively.

4. The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification, declare what, for the purposes of this Regulation or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor," respectively.

Definition of retail and wholesale sale.

5. (*1*) The Chief Commissioner may, by notification, declare, with respect either to the whole province or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Regulation, be the limit of a retail sale.

(*2*) The sale of any excisable article in any quantity in excess of the quantity declared in respect thereof under sub-section (*1*) shall be deemed to be a sale by wholesale.

[1] General Acts, Vol. II.

Saving of enactments.

6. Nothing contained in this Regulation shall affect the provisions of the Sea Customs Act, 1878[1], or the [2]Indian Tariff Act, 1894 (except section 6 thereof), or the [3]Cantonments Act, 1910, or any rule or order made thereunder. VIII of 1878. VIII of 1894. XV of 1910.

CHAPTER II.

ESTABLISHMENT AND CONTROL.

Establishment and powers thereof.

7. The Chief Commissioner may, by notification, for the whole or for any specified part of the province,—

(*a*) appoint an officer who, subject to such control (if any) as the Chief Commissioner may direct, shall superintend the administration of the Excise Department and the collection of the excise-revenue;

(*b*) appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties conferred and imposed on a Collector by or under this Regulation, either concurrently with or in subordination to, or in exclusion of, the Collector subject to such control as the Chief Commissioner may direct;

(*c*) appoint officers of the Excise Department of such classes and with such designations, powers and duties as the Chief Commissioner may think fit;

(*d*) order that all or any of the powers and duties assigned by or under this Regulation to any officer appointed under clause (*c*) shall be exercised and performed by any Government officer or any other person;

(*e*) delegate to the Excise Commissioner all or any of his powers under this Regulation;

(*f*) withdraw from any officer or person all or any of his powers under this Regulation; and

(*g*) authorize the delegation by the Excise Commissioner or the Collector to any person or class of persons specified in such notification of any powers conferred or duties imposed upon him by or under this Regulation, or exercised or discharged by him in respect of the excise-revenue under any other law for the time being in force.

[1] General Acts, Vol. II.
[2] *Ibid*, Vol. IV.
[3] *Ibid*, Vol. VII.

CHAPTER III.

IMPORT, EXPORT AND TRANSPORT.

Power to prohibit import, export or transport.

8. The Chief Commissioner may, by notification,—

(*a*) with the previous sanction of the Governor General in Council, prohibit, throughout the province or in any specified area thereof the import or export of any excisable article;

(*b*) prohibit the transport of any excisable article.

Restriction on import, export or transport.

9. No excisable article shall be imported, exported or transported, except,—

(*a*) after payment of any duty of customs or excise to which it may be liable, or execution of a bond for such payment; or

(*b*) on compliance with such conditions as the Chief Commissioner may impose.

Requirement of pass for import, export or transport.

10. No excisable article exceeding such quantity as the Chief Commissioner may prescribe by notification, either generally or for any specified area, shall be imported, exported or transported, except under a pass issued, or deemed to be issued, under the provisions of this Regulation;

Provided that in the case of duty paid foreign liquor such passes shall be dispensed with, unless the Chief Commissioner shall, by notification, otherwise direct with respect to any local area.

Passes for import, export or transport

11. (*1*) Except when otherwise directed by the Excise Commissioner, passes for the import, export or transport of excisable articles may be granted by the Collector.

(2) Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only.

Passes issued by other authorities may be deemed passes granted under this Regulation.

12. The Excise Commissioner may, by general or special order, direct, subject to such conditions (if any) as he may impose, that a pass granted by any authority in India shall be deemed to be a pass for any purpose under this Regulation.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

License required for manufacture of excisable articles.

13. (*a*) No excisable article shall be manufactured or collected;

(*b*) no hemp ~~or coca~~ plant shall be cultivated;

(*c*) no *tari*-producing tree shall be tapped and no *tari* shall be drawn from any tree;

(*d*) no liquor shall be bottled for sale;

(*e*) no distillery or brewery shall be constructed or worked; and

(*f*) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*,

except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that the Chief Commissioner may, by notification, declare that the provisions of this section shall not apply, in any area specified in this behalf, to the tapping of *tari*-producing trees, or the drawing of *tari* under such conditions as he may prescribe.

Establishment or licensing of distilleries and warehouses.

14. The Excise Commissioner may—

(*a*) establish a distillery in which spirit may be manufactured under a license granted under section 13 on such conditions as the Chief Commissioner may impose;

(*b*) discontinue any such distillery;

(*c*) license, on such conditions as the Chief Commissioner may impose, the construction and working of a distillery or brewery;

(*d*) establish or license a warehouse wherein any excisable article may be deposited and kept without payment of duty; and

(*e*) discontinue any such warehouse.

Payment of duty on removal from distillery, brewery or place of storage.

15. Without the sanction of the Chief Commissioner no excisable article shall be removed from any distillery, brewery, warehouse or other place of storage established or licensed under this Regulation unless the duty (if any) imposed under section 24 has been paid or a bond has been executed for the payment thereof.

Possession of excisable articles generally.

16. (*1*) The Chief Commissioner may, by notification, prescribe a limit of quantity for the possession of any excisable article:

Provided that different limits may be prescribed for different qualities of the same article.

(*2*) No person shall have in his possession any quantity of any excisable article in excess of the limit prescribed under sub-section (*1*), except under the authority and in accordance with the terms and conditions of—

(*a*) a license for the manufacture, cultivation, collection, sale or supply of such article, or

(*b*) a permit granted by the Collector in that behalf.

(*3*) Sub-section (*2*) shall not apply to any foreign liquor—

(*a*) which is in the possession of any common carrier or warehouseman as such, or

(*b*) which is lawfully procured by and in the possession of any person for his *bonâ fide* private consumption and not for sale.

(*4*) Notwithstanding anything contained in the foregoing sub-sections, the Chief Commissioner may, by notification, prohibit the possession by any person or class of persons, either throughout the province or in any specified

area, of any excisable article either absolutely, or subject to such conditions as he may prescribe.

License required for sale of excisable articles.

17. (*1*) No excisable article shall be sold except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that—

(*a*) a person having the right to the *tari* drawn from any tree may sell such *tari* without a license to a person licensed to manufacture or sell *tari* under this Regulation;

(*b*) nothing in this section shall apply to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(*2*) On such conditions as the Excise Commissioner may determine, a license for sale under the Excise law for the time being in force in other parts of British India may be deemed to be a license granted in that behalf under this Regulation.

Power to grant lease of right to manufacture, etc.

18. (*1*) The Chief Commissioner may lease to any person, on such conditions and for such period as he may think fit, the right—

(*a*) of manufacturing or of supplying by wholesale, or of both, or

(*b*) of selling by wholesale or by retail, or

(*c*) of manufacturing or of supplying by wholesale, or of both, and of selling by retail,

any country liquor or intoxicating drug within any specified area.

(*2*) The licensing authority may grant to a lessee under sub-section (*1*) a license in the terms of his lease; and, when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a licence to any sub-lessee approved by such authority.

Lessee's permission to draw *tari*.

19. Where a right of manufacturing *tari* has been leased under section 18, the Chief Commissioner may declare that the written permission of the lessee to draw *tari* shall have the same force and effect as a license from the Collector for that purpose.

Manufacture and sale of liquor in military cantonments.

20. Within the limits of any military cantonment, and within such distance from those limits as the Chief Commissioner in any case may prescribe, no license for the retail sale of liquor shall be granted, except with the knowledge and consent of the Commanding Officer.

Duties of licensees with regard to measurement and testing.

21. Every person who manufactures or sells any excisable article under a license granted under this Regulation shall be bound—

(*a*) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe, and to keep the same in good condition and on the licensed premises; and

(*b*) on the requisition of any Excise-officer duly empowered in that behalf, at any time to measure, weigh or test any excisable

article in his possession in such manner as the said Excise-Officer may require.

Prohibition of employment of children and of women.

22. (*1*) No person who is licensed to sell any excisable article for consumption on his premises shall, during the hours in which such premises are kept open for business employ or permit to be employed, either with or without remuneration, any child under such age as the Chief Commissioner may by rule prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

(*2*) No person who is licensed to sell any excisable article for consumption on his premises shall, without the previous permission in writing of the Collector, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman in any part of such premises in which such excisable article is consumed by the public.

(*3*) Every permission granted under sub-section (*2*) shall be endorsed on the license and may be modified or withdrawn.

Closing of shops for the sake of public peace.

23. (*1*) The District Magistrate, by notice in writing to the licensee, may require that any shops in which any excisable article is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

(*2*) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class, or any police-officer above the rank of constable who is present, may require such shop to be kept closed for such period as he may think necessary :

Provided that where any riot or unlawful assembly so occurs, the licensee shall, in the absence of such Magistrate or officer, close his shop without any order and keep it closed during the continuance of such riot or unlawful assembly.

CHAPTER V.

Duties and Fees.

Duty on excisable articles.

24. (*1*) The Chief Commissioner may, by notification, impose a duty, at such rate or rates as he thinks fit, either generally or for any specified area, on any excisable article—

(*a*) imported ; or
(*b*) exported ; or
(*c*) transported ; or
(*d*) manufactured, cultivated or collected under any license granted under section 13 ; or
(*e*) manufactured in any distillery established, or any distillery or brewery licensed under this Regulation.

(2) Duty may be imposed under sub-section (*1*) at different rates according to the places to which any excisable article is to be removed, or according to the strength and quality of such article.

(3) Notwithstanding anything contained in sub-section (*1*),—

(*i*) duty shall not be imposed thereunder on any article which has been imported into British India and was liable, on such importation, to duty under the Sea Customs Act, 1878[1], or the Indian Tariff Act, 1894[2];

(*ii*) duty imposed thereunder on denatured spirit or beer manufactured in British India shall, unless the Chief Commissioner with the previous sanction of the Governor General in Council otherwise directs, be equal to the duty to which denatured spirit or beer, as the case may be, when imported into British India by sea, is liable under the Indian Tariff Act, 1894[2], or any other law for the time being in force relating to the duties of customs on goods imported into British India.

Ways of levying such duty.

25. Subject to such rules regulating the time, place and manner as the Chief Commissioner may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse:

Provided that—

(*1*) duty may be levied—

(*a*) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Regulation—

(*i*) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Chief Commissioner may prescribe, or

(*ii*) by a rate charged directly on the materials used;

(*b*) on *tari*, by a tax on each tree from which the *tari* is drawn;

(*2*) where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from the warehouse.

Payment for grant of leases.

26. Instead of or in addition to any duty leviable under this Chapter, the Chief Commissioner may accept payment of a sum in consideration of the grant of any lease under section 18.

[1] General Acts, Vol. II.

[2] General Acts, Vol. IV.

CHAPTER VI.

LICENSES, PERMITS AND PASSES.

Form and conditions of licenses, etc.

27. Every license, permit or pass granted under this Regulation—

(*a*) shall be granted—

(*i*) on payment of such fees (if any),

(*ii*) for such period,

(*iii*) subject to such restrictions and on such conditions, and

(*b*) shall be in such form and contain such particulars,

as the Chief Commissioner may direct either generally or in any particular instance.

Power to take security from licensee.

28. Any authority granting a license under this Regulation may require the licensee to give such security for the observance of the terms of his license, or to make such deposit in lieu of security, as such authority may think fit.

Technical defects, irregularities and omissions.

29. (*1*) No license granted under this Regulation shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof.

(*2*) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

Power to cancel or suspend license, etc.

30. (*1*) Subject to such restrictions as the Chief Commissioner may prescribe, the authority granting any license, permit or pass under this Regulation may cancel or suspend it—

(*a*) if any duty or fee payable by the holder thereof be not duly paid; or

(*b*) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or

(*c*) if the holder thereof, or any of his servants, or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Regulation or any other law for the time being in force relating to excise-revenue; or

(*d*) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Indian Merchandise Marks Act, 1889[1], or under any section which has been introduced into the Indian Penal Code[2] by section 3 of that Act, or of any offence punishable under clause (*8*) of section 167 of the Sea Customs Act, 1878[3]; or

IV of 1889.

XLV of 1860.

VIII of 1878.

(*e*) where a license, permit or pass has been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee; or

[1] General Acts, Vol. IV.
[2] General Acts, Vol. I.
[3] General Acts, Vol. II.

(*f*) if the conditions of the license, permit or pass provide for such cancellation or suspension at will.

(*2*) Where a license, permit or pass held by any person is cancelled under clause (*a*), clause (*b*), clause (*c*) or clause (*d*) of sub-section (*1*), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Regulation or under any other law for the time being in force relating to excise-revenue, or under the Opium Act, 1878[1].

(*3*) The holder shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

(*4*) Where a license, permit or pass is cancelled or suspended under clause (*a*), clause (*b*), clause (*c*) or clause (*d*) of sub-section (*1*),—

(*a*) the fee payable for the balance of the period for which such license would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise-revenue;

(*b*) the Collector may take the grant under management or resell it, but any profit realized by such management or resale which is not in excess of the amount recovered for such period shall be paid to the ex-licensee.

Power to withdraw licenses.

31. (*1*) Whenever the authority which granted any license under this Regulation considers that such license should be withdrawn for any cause other than those specified in section 30, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either—

(*a*) on the expiration of fifteen days' notice in writing of its intention to do so, or

(*b*) forthwith without notice.

(*2*) If any license be withdrawn under clause (*b*) of sub-section (*1*), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(*3*) When a license is withdrawn under sub-section (*1*), any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount (if any) due to Government.

Surrender of license.

32. (*1*) Any holder of a license granted under this Regulation to sell an excisable article may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, and on payment of the fee payable for the license for the remainder of the period for which it would have been current but for such surrender:

[1] General Acts, Vol. II.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(*2*) Sub-section (*1*) shall not apply in the case of any license granted under section 18.

Explanation.—The words "holder of a license" as used in this section include a person whose tender or bid for a license has been accepted although he may not actually have received the license.

CHAPTER VII.

Offences and Penalties.

Penalty for illegal import, etc.

33. Whoever, in contravention of this Regulation, or of any rule, notification or order made, issued or given thereunder, or of any license, permit or pass granted under this Regulation,—

(*a*) imports, exports, transports, manufactures, collects or possesses any excisable article; or

(*b*) save in the cases provided for in section 37, sells any excisable article; or

(*c*) cultivates any hemp ~~or coca~~ plant; or

(*d*) taps or draws *tari* from any *tari*-producing tree; or

(*e*) constructs or works any distillery or brewery; or

(*f*) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*; or

(*g*) removes any excisable article from any distillery, brewery or warehouse license, established or continued under this Regulation; or

(*h*) bottles any liquor;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

~~Provided that, when any person is convicted under this section of any offence committed in respect of cocaine or any of the synthetics thereof, he shall be punishable for every such offence with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.~~

Penalty for rendering denatured spirit fit for human consumption.

34. Whoever—

(*a*) renders fit for human consumption any spirit which has been denatured; or

(*b*) has in his possession any spirit in respect of which he knows or has reason to believe that any such offence has been committed, or that an attempt to commit such offence has been made;

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for illegal possession.

35. Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for offences not otherwise provided for.

36. Whoever does any act in contravention of any of the provisions of this Regulation, or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Regulation, shall be punishable with fine which may extend to two hundred rupees.

Penalty for certain unlawful acts of licensed vendors.

37. (*1*) A licensed vendor or any person in his employ and acting on his behalf who—

(*a*) sells any excisable article to a person who is drunk; or

(*b*) sells or gives any excisable article to any child apparently under such age as the Chief Commissioner may by rule prescribe in this behalf; or

(*c*) in contravention of section 22 employs or permits to be employed on any part of his licensed premises referred to in that section any child or woman; or

(*d*) permits drunkenness, disorderly conduct or gaming on the permises of such vendor; or

(*e*) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes, to resort to or assemble on the premises of such vendor, whether for the purposes of crime or prostitution or not;

shall be punishable with fine which may extend to five hundred rupees.

(*2*) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

Penalty for misconduct by licensees, etc.

38. A holder of a license, permit or pass granted under this Regulation, or any person in the employ of such holder and acting on his behalf, who intentionally—

(*a*) fails to produce such license, permit or pass on the demand of any Excise-officer or of any other officer duly empowered to make such demand; or

(*b*) save in a case provided for by section 33, contravenes any rule made under section 62; or

(*c*) does any act in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Regulation;

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(*2*) Sub-section (*1*) shall not apply in the case of any license granted under section 18.

Explanation.—The words "holder of a license" as used in this section include a person whose tender or bid for a license has been accepted although he may not actually have received the license.

CHAPTER VII.

Offences and Penalties.

Penalty for illegal import, etc.

33. Whoever, in contravention of this Regulation, or of any rule, notification or order made, issued or given thereunder, or of any license, permit or pass granted under this Regulation,—

(*a*) imports, exports, transports, manufactures, collects or possesses any excisable article; or

(*b*) save in the cases provided for in section 37, sells any excisable article; or

(*c*) cultivates any hemp ~~or coca~~ plant; or

(*d*) taps or draws *tari* from any *tari*-producing tree; or

(*e*) constructs or works any distillery or brewery; or

(*f*) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*; or

(*g*) removes any excisable article from any distillery, brewery or warehouse license, established or continued under this Regulation; or

(*h*) bottles any liquor;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

~~Provided that, when any person is convicted under this section of any offence committed in respect of cocaine or any of the synthetics thereof, he shall be punishable for every such offence with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.~~

Penalty for rendering denatured spirit fit for human consumption.

34. Whoever—

(*a*) renders fit for human consumption any spirit which has been denatured; or

(*b*) has in his possession any spirit in respect of which he knows or has reason to believe that any such offence has been committed, or that an attempt to commit such offence has been made;

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for illegal possession.

35. Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for offences not otherwise provided for.

36. Whoever does any act in contravention of any of the provisions of this Regulation, or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Regulation, shall be punishable with fine which may extend to two hundred rupees.

Penalty for certain unlawful acts of licensed vendors.

37. (*1*) A licensed vendor or any person in his employ and acting on his behalf who—

(*a*) sells any excisable article to a person who is drunk; or

(*b*) sells or gives any excisable article to any child apparently under such age as the Chief Commissioner may by rule prescribe in this behalf; or

(*c*) in contravention of section 23 employs or permits to be employed on any part of his licensed premises referred to in that section any child or woman; or

(*d*) permits drunkenness, disorderly conduct or gaming on the permises of such vendor; or

(*e*) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes, to resort to or assemble on the premises of such vendor, whether for the purposes of crime or prostitution or not;

shall be punishable with fine which may extend to five hundred rupees.

(2) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

Penalty for *misconduct* by licensees, etc.

38. A holder of a license, permit or pass granted under this Regulation, or any person in the employ of such holder and acting on his behalf, who intentionally—

(*a*) fails to produce such license, permit or pass on the demand of any Excise-officer or of any other officer duly empowered to make such demand; or

(*b*) save in a case provided for by section 33, contravenes any rule made under section 62; or

(*c*) does any act in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Regulation;

shall be punishable in case (*a*) with fine which may extend to two hundred rupees, and in case (*b*) or case (*c*) with fine which may extend to five hundred rupees.

Penalty for consumption in chemist's shop, etc.

39. (*1*) A chemist, druggist, apothecary or keeper of a dispensary who allows any excisable article which has not been *bonâ fide* médicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(*2*) Any person not employed as aforesaid who consumes any such excisable article on such premises shall be punishable with fine which may extend to two hundred rupees.

Manufacture, sale or possession by one person on account of another.

40. (*1*) Where any excisable article has been manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Regulation, be deemed to have been manufactured or sold by, or to be in the possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person who manufactures, sells or has possession of an excisable article on account of another person from liability to any punishment under this Regulation for the unlawful manufacture, sale or possession of such article.

Attempts to commit offences.

41. Whoever attempts to commit any offence punishable under this Regulation shall be liable to the punishment provided for such offence.

Presumption as to commission of offence in certain cases.

42. In prosecutions under section 33, section 34 and section 35 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of—

(*a*) any excisable article, or

(*b*) any still, utensil, implements or apparatus whatsoever for the manufacture of any excisable article other than *tari*, or

(*c*) any materials which have undergone any process towards the manufacture of an excisable article, or from which an excisable article has been manufactured,

for the possession of which he is unable to account satisfactorily.

Criminal liability of licensee for acts of servants.

43. Where any offence under section 33, section 34, section 35, section 37 or section 38 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass granted under this Regulation, such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the acutal offender shall be punishable under this section with imprisonment except in default of payment of fine.

44. If any person, after having been previously convicted of an offence punishable under section 33, section 34, section 35, or section 39, or under the corresponding provisions in any enactment repealed by this Regulation subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Regulation : Enhanced punishment after previous conviction.

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898[1], from being so tried.

45. Whenever an offence has been committed which is punishable under this Regulation, the following things shall be liable to confiscation, namely :— Liability of certain things to confiscation.

(*1*) any excisable article, materials, still, utensil, implement or apparatus in respect of or by means of which such offence has been committed ;

(*2*) any excisable article lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any excisable article liable to confiscation under clause (*1*) ; and

(*3*) any receptacle, package or covering in which anything liable to confiscation under clause (*1*) or (*2*) is found, and the other contents, if any, of such receptacle, package or covering, and any animal, cart, vessel, raft or other conveyance used in carrying the same :

Provided that if anything specified in clause (*3*) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

46. (*1*) Where in any case tried by him the Magistrate decides that anything is liable to confiscation under section 45, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit. Order of confiscation.

(*2*) When an offence under this Regulation has been committed, but the offender is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim :

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of its owner, the Collector may at any time direct it to be sold ; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

47. (*1*) The Collector may— Power to compound offences.

(*a*) accept from any person whose license, permit or pass is liable to be cancelled or suspended under clauses (*a*) and (*b*) of sub-section

[1] General Acts, Vol. V.

(*1*) of section 30, or who is reasonably suspected of having committed an offence under section 36, section 37, or section 38, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension, or by way of composition for such offence, as the case may be; and

(*b*) in any case in which any property has been seized as liable to confiscation under this Regulation may, at any time before an order of confiscation has been passed by a Magistrate, release the same on payment of the value thereof as estimated by the Collector.

(*2*) On the payment of such sum of money or such value, or both, as the case may be, to the Collector, the accused person, if in custody, shall be discharged, the property seized (if any) shall be released, and no further proceedings shall be taken against such person or property.

Penalty on Excise-officer making vexatious search, seizure, detention or arrest.

48. Any Excise-officer who vexatiously and unnecessarily—

(*a*) enters or searches or causes to be entered or searched any place under colour of exercising any power conferred by this Regulation, or

(*b*) seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Regulation, or

(*c*) searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for Excise-officer refusing to do duty.

49. Any Excise-officer, who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction before a Magistrate, be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.

Detection, Investigation and Trial of Offences.

Landholders and others to give information.

50. Whenever any excisable article is manufactured or collected, or any hemp ~~or coca~~ plant is cultivated, on any land in contravention of this Regulation—

(*a*) all owners and occupiers of such land and their agents; and

(*b*) all village-headmen, village-accountants, village-watchmen, village police-officers, and all officers employed in the collection of

revenue or rent of land on the part of Government or the Court of Wards in the villages in which such land is situate;

shall, in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or to an officer of the Excise, Police or Land Revenue Department as soon as the fact comes to their knowledge.

Power to enter and inspect places of manufacture and sale.

51. The Excise Commissioner, or a Collector or any Excise-officer not below such rank as the Chief Commissioner may by notification prescribe, or any Police-officer duly empowered in that behalf, may—

(*a*) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer manufactures or stores any excisable article; and

(*b*) enter and inspect, at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any excisable article is kept for sale by any person holding a license under this Regulation; and

(*c*) examine accounts and registers, and examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or excisable article found in such place.

Power to arrest without warrant, to seize article liable to confiscation and to make searches.

52. (*1*) Any officer of the Excise, Police, or Land Revenue Department, subject to such restrictions as the Chief Commissioner may prescribe, and any other person duly empowered, may—

(*a*) arrest without warrant any person found committing an offence punishable under section 33, section 34 or section 35; and

(*b*) seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Regulation or any other law for the time being in force relating to excise-revenue; and

(*c*) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

(*2*) When any person is accused or reasonably suspected of committing an offence under this Regulation, other than an offence under section 33, section 34 or section 35, and on demand of any such officer as aforesaid refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer in order that his name and residence may be ascertained.

Power of Magistrate to issue a warrant.

53. If a Magistrate, upon information and after such inquiry (if any) as he thinks necessary, has reason to believe that an offence under section 33, section 34 or section 35 has been, is being, or is likely to be committed, he may issue a warrant—

(*a*) for the search of any place in which he has reason to believe that any excisable article, still, utensil, implement, apparatus or

materials which are used for the commission of such offence, or in respect of which such offence has been, is being, or is likely to be committed, are kept or concealed, and

(*b*) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

Power to search without a warrant.

54. Whenever any Excise-officer not below such rank as the Chief Commissioner may, by notification, prescribe, has reason to believe that an offence under section 33, section 34 or section 35, has been, is being, or is likely to be committed, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief,—

(*a*) at any time by day or night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Regulation; and

(*b*) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Powers of Excise-officers in matters of investigation.

55. (*1*) Any Excise-officer not below such rank and within such specified area as the Chief Commissioner may, by notification, prescribe, may, as regards offences under section 33, section 34 and section 35, exercise the powers conferred on an officer in charge of a police-station by the provisions of the Code of Criminal Procedure, 1898[1]. V of 1898.

Provided that any such powers shall be subject to such restrictions and modifications (if any) as the Chief Commissioner may by rule prescribe.

(*2*) For the purposes of section 156 of the said Code the area in regard to which an Excise-officer is empowered under sub-section (*1*) shall be deemed to be a police-station, and such officer shall be deemed to be the officer in charge of the station.

(*3*) Any such officer specially empowered in that behalf by the Chief Commissioner may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence against this Regulation, which he has investigated or which may have been reported to him.

Report by investigating officer.

56. If on an investigation by an Excise-officer empowered under section 55, sub-section (*1*), it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he proceeds under section 55, sub-section (*3*), shall submit a report (which shall for the purposes of section 190 of the Code of Criminal Procedure, 1898[1], be deemed V of 1898. to be a police-report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police-reports.

[1] General Acts, Vol. V.

Report by Excise-officer.

57. Where any Excise-officer below the rank of Collector makes any arrest, seizure or search under this Regulation, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 59, take or send the person arrested, or the thing seized, with all convenient despatch, to a Magistrate for trial or adjudication.

Arrests, searches, etc., how to be made.

58. Save as in this Regulation otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898[1], relating to arrests, detentions in custody, searches, summonses, warrants of arrest, search-warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Regulation.

Security for appearance in case of arrest without warrant.

59. (*1*) The Chief Commissioner may empower any Excise-officer to release persons on bail.

(*2*) When a person is arrested under this Regulation otherwise than on warrant by a person or officer who has not authority to release arrested persons on bail, he shall be produced before or forwarded to—

(*a*) the nearest Excise-officer who has authority to release arrested persons on bail, or

(*b*) the nearest officer in charge of a police-station,

whoever is nearer.

(*3*) Whenever any person arrested under this Regulation otherwise than on a warrant is prepared to give bail, and is arrested by or produced in accordance with sub-section (*2*) before an officer who has authority to release arrested persons on bail, he shall be released upon bail or, at the discretion of the officer releasing him, on his own bond.

(*4*) The provisions of sections 499 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898[1], shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

Cognizance of offences.

60. No Magistrate of the third class, unless he is specially empowered by the District Magistrate in this behalf, shall take cognizance of, or try, any offence under this Regulation.

Limitation of prosecutions.

61. (*1*) No Magistrate shall take cognizance of an offence punishable—

(*a*) under section 36, section 37 or section 38, except on the complaint or report of the Collector or of an Excise-officer authorized by him in this behalf; or

(*b*) under any other section of this Regulation other than section 18, except on his own knowledge or suspicion or on the complaint or report of an Excise or Police-officer.

(*2*) Except with the special sanction of the Chief Commissioner, no Magistrate shall take cognizance of any offence punishable under this Regulation or any rule or order thereunder, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

[1] General Acts, Vol. V.

CHAPTER IX.

MISCELLANEOUS.

Power to make rules.

62. (*1*) The Commissioner may make rules for the purpose of carrying out the provisions of this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Chief Commissioner may make rules—

(*a*) prescribing the powers and duties of Excise-officers ;

(*b*) regulating the delegation of any powers by the Excise Commissioner or Collectors under section 7, clause (*g*) ;

(*c*) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Regulation, or under any rule made thereunder, or by what authorities such orders may be revised and prescribing the time and manner of presenting, and the procedure for dealing with, appeals ;

(*d*) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any excisable article, and may, by such rules, among other matters—

(i) regulate the tapping of *tari*-producing trees, the drawing of *tari* from such trees, the marking of the same and the maintenance of such marks,

(ii) declare the process by which spirit shall be denatured and the denaturation of spirit ascertained, and

(iii) cause spirit to be denatured through the agency or under the supervision of his own officers ;

(*e*) regulating the periods and localities for which, and the persons or classes of persons to whom, licenses for the wholesale or retail vend of any excisable article may be granted, and regulating the number of such licenses which may be granted in any local area ;

(*f*) prescribing the procedure to be followed and the matters to be ascertained before any license for such vend is granted for any locality ;

(*g*) regulating the time, place and manner of payment of any duty or fee ;

(*h*) prescribing the authority by which, the form in which, and the terms and conditions on and subject to which, any license, permit or pass shall be granted, and may, by such rules, among other matters,—

(i) fix the period for which any license, permit or pass shall continue in force,

(ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any privilege, license, permit or pass, or the storing of any excisable article,

(iii) prescribe the amount of security to be deposited by the holders of any license, permit or pass for the performance of the conditions of the same,

(iv) prescribe the accounts to be maintained and the returns to be submitted by license-holders,

(v) prohibit or regulate the transfer of licenses, and

(vi) prescribe the ages under which it shall be unlawful to employ children and to sell or give to children excisable articles ;

(*i*) providing for the destruction or other disposal of any excisable article deemed to be unfit for use ;

(*j*) regulating the disposal of confiscated articles ;

(*k*) regulating the grant of expenses to witnesses and to persons charged with offences under this regulation and subsequently released or acquitted ; and

(*l*) regulating the power of Excise-officers to summon witnesses from a distance.

Publication of rules and notifications.

63. All rules made under this Regulation shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Regulation.

Recovery of Government dues.

64. (*1*) The following moneys, namely—

(*a*) all excise-revenue,

(*b*) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Collector or has been re-sold by him, and

(*c*) all amounts due to the Government by any person on account of any contract relating to the Excise-revenue,

may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his moveable property, or by any other process for the recovery of land revenue due from landholders or from farmers of land or their sureties.

(*2*) When a grant has been taken under management by the Collector, or has been re-sold by him, the Collector may recover, in any manner authorised by sub-section (*1*), any money due to the defaulter by any lessee or assignee.

Government lien on property of defaulters.

65. In the event of default by any person licensed or holding a lease under this Regulation, all his distillery, brewery or warehouse or shop buildings, fittings or apparatus, and all stocks of excisable articles or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises, shall be liable to be attached in satisfaction of any claim for excise-revenue, or in respect of any losses incurred by Government through such default, and to be sold to satisfy such claim which shall be a first charge upon the sale-proceeds.

Recovery of dues by lessee.

66. Any person to whom a lease has been granted in accordance with the provisions of section 18, may, in a case where sub-letting is not forbidden

under section 18.

by the terms of his lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease or holding as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant:

Provided that nothing contained in this section shall affect the right of any such grantee to recover any such money by civil suit.

Power of Local Government to exempt Excisable articles from the provisions of the Regulation.

67. The Chief Commissioner may, by notification, either wholly or partially and subject to such conditions as he may think fit to prescribe, exempt any excisable article from all or any of the provisions of this Regulation, either throughout the province or in any specified area, or for any specified period or occasion, or as regards any specified class of persons.

Protection to persons acting under Regulation.

68. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Regulation.

Limitation of suits.

69. No suit shall lie against the Secretary of State for India in Council or against any Excise-officer in respect of anything done, or alleged to have been done, in pursuance of this Regulation, unless the suit is instituted within six months from the date of the act complained of.

Repeal of enactments.

70. The enactments mentioned in the Schedule, in so far as they are in force in, or have been extended to, the provinces of Ajmer-Merwara, [Coorg and British Baluchistan], are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 70.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1896 .	XII .	The Excise Act, 1896 .	So much as has not been repealed.
1906 .	VII .	The Excise (Amendment) Act, 1906.	The whole.

APPENDIX.

ENACTMENTS DECLARED IN FORCE IN, OR EXTENDED TO, AJMER-MERWARA BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874[1].

[The Chief Commissionership of Ajmere and Merwara is a Scheduled District—*see* the Scheduled Districts Act, 1874,[1] First Schedule, Part IX—and the Act was brought into force there by Notification No. 169J., dated the 19th October, 1887 (published in the Gazette of India, 1877, Part I, page 605), which runs as follows:—"In exercise of the power conferred by section 3 of Act XIV of 1874[1] (the Scheduled Districts Act), the Officiating Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to declare that the said Act is in force in the Scheduled District of Ajmere and Merwara"]

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council.		
1850	XII[2]	The Public Accountants' Defaults Act, 1850.	Extended	*The 21st June, 1878.* *No. 73-J.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Officiating Chief Commissioner of Ajmere and Merwara is pleased with the previous sanction of the Governor General in Council, to extend the Acts mentioned in the first column of the Schedule hereto annexed to the Scheduled District of *Ajmere and Merwara*:— (Here follows the Schedule referred to, which contains, among other Acts, Act XII of 1850.) [*See* Gazette of India, 1878, Pt. I, p. 380; Rajputana Official Gazette, 1878, p. 144.]
"	XVIII[2]	The Judicial Officers' Protection Act, 1850.	Ditto	[*See* Notification No. 73-J., dated 21st June, 1878, *supra*.]
"	XXXIV[2]	The State Prisoners Act, 1850.	Ditto	Ditto.

[1] General Acts, Vol. II
[2] General Acts, Vol I.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1858	III[1]	The State Prisoners Act, 1858.	Extended .	*The 9th February, 1887.* *No. 132-J.*—In continuation of Notification No. 73-J., dated the 21st June 1878, and in exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to extend Act III of 1858 (*an Act to amend the law relating to the arrest and detention of State prisoners*) to the Scheduled District of Ajmere and Merwara. [*See* Gazette of India, 1887, Pt. II, p. 78.]
,,	*XXXV*[2]	*The Lunacy (District Courts) Act, 1858.*	*Ditto* .	[*See Notification No. 73-J., dated 21st June 1878, supra.*]
,,	*XXXVI*[2]	*The Indian Lunatic Asylums Act, 1858.*	*Ditto* .	*Ditto.*
,,	*XL*[3]	*Minors* . .	*Ditto* .	*Notification No. 5 I.-J., dated 7th January, 1881.* [*Gazette of India, 1881, Pt. I, p. 11.*]
1860	XXI[1]	The Societies Registration Act, 1860.	Ditto .	[*See* Notification No. 73-J., dated 21st June, 1878, *supra.*]
,,	*XXVII*[4]	*Collection of Debts on Succession.*	*Ditto* .	*Notification No. 171-J., dated 19th October, 1877.* [See *Gazette of India, 1877, Pt. I, p. 605; Rajputana Official Gazette, 1877, p. 237.*]
1863	XX[1]	The Religious Endowments Act, 1863.	Ditto .	Ditto.
1865	III[1]	The Carriers Act, 1865.	Ditto .	Ditto.

[1] General Acts, Vol. I.

[2] Acts XXXV and XXXVI of 1858 have been repealed by the Indian Lunacy Act, 1912 (IV of 1912), which applies to Ajmer-Merwara—*see* General Acts, Vol. VII.

[3] Act XL of 1858 was repealed by the Guardians and Wards Act, 1890 (VIII of 1890), in General Acts, Vol. IV, which applies to Ajmer-Merwara.

[4] Act XXVII of 1860 was repealed by the Succession Certificate Act, 1889 (VII of 1889), which applies to Ajmer-Merwara—*see* General Acts, Vol. IV.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1865	XI[1]	*Mufassal Small Cause Courts (except the sections repealed by Act X of 1877).*	*Extended* .	See *Gazette of India, 1877, Pt. I, p. 605, Rajputana Official Gazette, 1877, p. 237.*
	XV[2]	The Parsi Marriage and Divorce Act, 1865.	Ditto .	Notification No. 1111, dated 28th July, 1909. [*See* Gazette of India, 1909, Pt. II, p. 1314.]
„	XXI[2]	The Parsi Intestate Succession Act, 1865.	Declared in force	*The 21st June, 1878.* *No. 72-J.*—In exercise of the power conferred by section 3 of Act XIV of 1874 (the Scheduled Districts Act), the Officiating Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to declare that the undermentioned Acts are in force in the Scheduled District of Ajmere and Merwara:— No. XXI of 1865 (Parsi Intestate Succession Act). No. XXIII of 1870 (Coinage). [*See* Gazette of India, 1878, Pt. I, p. 380; Rajputana Official Gazette, 1878, p 144.]
1866	X[3]	*The Indian Companies Act, 1866.*	*Extended* .	[See *Notification No. 73-J., dated 21st June, 1878*, supra.]
1869	XV[4]	*The Prisoners' Testimony Act, 1869.*	*Ditto* .	*Ditto.*
1870	XXIII[5]	*The Indian Coinage Act, 1870.*	*Declared in force*	[See *Notification No. 72-J., dated 21st June, 1878*, supra.]

[1] Act XI of 1865 was repealed by the Provincial Small Cause Courts Act, 1887 (IX of 1887), which applies to Ajmer-Merwara—*see* General Acts, Vol. IV.

[2] General Acts, Vol. I.

[3] *See* now the Indian Companies Act, 1913 (VII of 1913), which applies to Ajmer-Merwara—General Acts, Vol. VII.

[4] Act XV of 1869 was repealed by the Prisoners Act, 1900 (III of 1900), which applies to Ajmer-Merwara—*see* General Acts, Vol. V.

[5] Act XXIII of 1870 was repealed by the Indian Coinage Act, 1906 (III of 1906), which applies to Ajmer-Merwara—*see* General Acts, Vol. VI.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1871	XXVII[1]	*The Criminal Tribes Act, 1871.*	*Extended* .	*Notification No. 171-J., dated 19th October, 1877.* [*Gazette of India, 1877, Pt. I, p. 605; Rajputana Official Gazette, 1877, p. 237.*]
1873	XV[2]	*The United Provinces Municipalities Act, 1873.*	*Ditto* . .	*Ditto.*
1875	XV[3]	The Punjab Laws Amendment Act, 1875.	Ditto (with the necessary verbal alteration for application to Ajmer-Merwara instead of to the Punjab).	Ditto.
1877	I[4]	The Specific Relief Act, 1877.	Extended .	*The 13th October, 1897.* *No. 7.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend the following enactments to the Scheduled District of Ajmer-Merwara :— The Specific Relief Act, 1877 (I of 1877). The Indian Easements Act, 1882 (V of 1882). [*See* Gazette of India, 1897, Pt. II, p. 1415.]
,,	X[5]	*Code of Civil Procedure (except sections 1 and 3).*	*Ditto* . .	*Ditto.*

[1] See now the Criminal Tribes Act, 1911 (III of 1911), which applies to Ajmer-Marwara—General Acts, Vol. VII.

[2] Act XV of 1873 was repealed in Ajmer-Merwara by the Ajmere Municipalities Regulation, 1886 (V of 1886), section 17, *supra.*

[3] *Supra.*

[4] General Acts, Vol II.

[5] See now the Code of Civil Procedure, 1908 (Act V of 1908), in General Acts, Vol. VI, which has been extended to Ajmer-Marwara—*see* Appendix, *infra.*

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1879	*XII*[1]	*Amending Code of Civil Procedure, etc. (except so much as amends the Indian Registration and Limitation Acts, 1877).*	*Extended*	*Notification No. 212 I.-J., dated 30th December, 1880* [See *Gazette of India, 1881, Pt. I, p. 2.*]
1882	V[2]	The Indian Easements Act, 1882.	Ditto	[*See* Notification No. 7, dated 13th October, 1897, *supra.*]
,,	*XIV*[3]	*Code of Civil Procedure (except sections 1 and 3.)*	*Ditto*	*Notification No. 289 I., dated 28th July, 1882.* [See *Gazette of India, 1882, Pt. I, p. 289.*]
1883	XIX[4]	The Land Improvement Loans Act, 1883	Ditto	*The 20th March, 1886.* *No. 273—115-II.*—In exercise of the powers conferred by section 5, Act XIV of 1874 (the Scheduled Districts Act), the Chief Commissioner of Ajmer-Merwara is pleased, with the previous sanction of the Governor General in Council, to extend Act XIX of 1883 (the Land Improvement Loans Act) to the Scheduled District of Ajmer-Merwara, with effect from the 1st of January, 1886. [*See* Gazette of India, 1886, Pt. *II*, p. 157.]
1887	XVII[5]	The Punjab Land Revenue Act, 1887 (sections 33 to 40, 44 to 46 and 98).	Ditto	*The 16th July, 1895.* *No. 801—562 III.*—The Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Ajmere and Merwara, under sections 5 and 5A of the Scheduled Districts Act, 1874, the provisions of sections 33 to 40

[1] Act XII of 1879, so far as it amended the Code of Civil Procedure, was repealed by Act XIV of 1882. The residue was repealed by Acts IX and XVI of 1908.

[2] *Supra.*

[3] See now the Code of Civil Procedure, 1908 (Act V of 1908), in General Acts, Vol. VI. which has been extended to Ajmer-Merwara—*see* Appendix, *infra.*

[4] General Acts, Vol. III.

[5] *Supra.*

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
				Acts of the Governor General in Council—contd.
				(both inclusive), and sections 44 to 46 (both inclusive) and section 98 of the Punjab Land Revenue Act, XVII of 1887, subject to the modifications appearing in and in relation to these sections as set forth in the schedule to this notification. (Here follows the schedule which is reproduced above in Pt. II.) [*See* Gazette of India, 1895, Pt. II, p. 917.]
1888	*VII*[1]	*Amending Code of Civil Procedure (except sections 65 and 66).*	*Extended*	*Notification No. 453-7-4, dated 22nd April, 1889.* [See *Gazette of India, 1889, Pt. II, p. 220.*]
,,	*X*[2]	*The Presidency Small Cause Courts Law Amendment Act, 1888 (sections 1 and 3).*	*Ditto*	*Ditto.*
1907	III[3]	The Provincial Insolvency Act, 1907.	Ditto	Notification No. 1164, dated 6th August, 1909. [*See* Gazette of India, 1909, Pt. II, p. 1314.]
1908	V[3]	The Code of Civil Procedure, 1908 (except sections 1 and 155 to 158 already in force).	Ditto	Notification No. 333, dated 10th March, 1909. [*See* Gazette of India, 1909, Pt. II, p. 480.]

[1] Act VII of 1888 has been repealed by Acts V, IX and XVI of 1908.
[2] Act X of 1888 was repealed by Act V of 1908 which has been extended to Ajmer-Merwara—*see infra.*
[3] General Acts, Vol. VI.

INDEX.

[The references are to pages.]

AJMERE ALIENATION OF LAND REGULATION 1914 250

ALIENATION

permanent 251

temporary 252,255

Definitions 250

Exemption 257

Record of rights 256

Rules 257

AJMERE AMENDING REGULATION, 1893 235

Enactments amended 235

Extent 235

AJMER AND MERWARA PRIVATE FORESTS PRESERVATION REGULATION, 1892 . . 233

Definitions 233

Estate Commons 234

Extent 233

Rules 234

AJMERE COURTS REGULATION, 1877 116

Amended 233, 238, 239

Appeals, original 119

Appellate Court, second 119

decision when final 119

Benches of Judges, how constituted 118

powers of 118

Civil Procedure Code, application of 121

References under 121

Commencement 117

Court(s), deemed highest court of appeal 120

of original jurisdiction 119

of reference 119

Criminal Procedure Code, High Court under 124

Distribution of business 121

District Judge, powers of, may be conferred on Subordinate Judge of first class . 118

Evidence, mode of recording 122

Limitation 120

Magistrate, appointment 124

Munsifs 117

Pleaders and Mukhtars 122

Property exempted from sale and attachment 123

Province to form single district 117

AJMERE COURTS REGULATION, 1877—*contd.*
Provincial Small Cause Courts Act, applied as far as applicable 118
references under 121
Reference(s) applications for and procedure 119, 120
under Code of Civil Procedure 121
Provincial Small Cause Courts Act 121
Subordinate Courts, control 121
Subordinate Judges, appointment 117
may be invested with powers of Small Cause Court . . 118
Taluqdars, inheritance suits in case of certain 123
Withdrawal of suit and reference to other court 121
AJMERE FOREST REGULATION, 1874— 110
Cattle trespass in unprotected forest 112
Definitions 110
Disforested land, restoration 113
Fines, recovery of 113
Forms 113, 114
Land, declaration for taking up land 111
relinquishing land 112
See disforested, supra.
Misconduct, profits forfeited for 112
Profits from State operation, disposal of 112
Rules 112
Unprotected forest, cattle trespass in 112
Villagers' rights, and how they are to be exercised 111
AJMERE GOVERNMENT WARDS REGULATION, 1888 227
Appeals 231
Control 232
Costs 230
Court of Wards 228
power as to property of ward 230
superintendence of, not to be contested 228
withdrawal of superintendence 231
Definitions 227
Extent 227
Guardians, appointment of 229
Landholder to be under jurisdiction of Court of Wards 228
superintendence of person of disqualified 228
property of disqualified 228
when deemed disqualified 228
Manager, liabilities of 229
status of, in suits 230
Repeal 227
Rules 232
Succession, procedure in disputed 231
Ward, allowances 230
custody, etc., of 229
disabilities 231
processes against, how to be served 230
suits on behalf of 231

AJMERE IRRIGATION REGULATION, 1887 223
Civil Courts, jurisdiction 225
Definitions 224
Extent 223
Percolation, assessment for benefits derived from 224
Revenue, water, recovery 225
Rules 224
AJMERE LAND AND REVENUE REGULATION, 1877 130
Amended 235, 238
Appeals 151, 152
limitation 152
Arrear of revenue, recovery 148
Assessment, holdings partially or wholly exempt 138
Bhum 137
Boundary marks 149
Common land 132
Criminal proceedings, privileges of istimrardars 137
Crops, Division 140
Definitions 131
Distraint by village headmen abolished 149
Enhancement of rent 140
Expropriatary Tenants 139
Extent of Regulation 131
Istimrari estates 134
expropriation 136
Sanads granted subsequent to Regulation 137
Jurisdiction of Civil Courts, limitation of 152
Land, power to attach 146
Land-revenue Settlement and Assessment 142
continuance of assessment 144
collection 145
Mines and quarries 131
Money, decrees not executable after death of Istimrardar 137
Moveable property, attachment and sale 146
Procedure 146
Occupancy Tenants 139
Partition 137
Costs 134
perfect when allowed 143
Pasturage, use of 132
Penalty for breach of Rules 151
Produce, division of 140
Rent(s) abatement in occupancy tenancies 146
enhancement 140
execution of decrees for arrears 142
Repeal in part, Regulation 227
Revenue assignments 138
payment of 145

AJMERE LAND AND REVENUE REGULATION, 1877—*contd.*
Revenue recovery of, through headmen 149
other than land revenue, *see* AJMERE LAWS REGULATION, 1877.
officer, delegation of powers 145
additional powers 150
Revisional powers 150
Rules 151
Sequestration 148
Settlement record. *see* land revenue.
making of entries 144
maintenance 144
Tanks 132
Tenant(s) ejectment 141
compensation 142
-at-will, relinquishment by 142
Transfer to solvent co-owner 147
Water, collections of 132
AJMERE LAWS REGULATION, 1877 155
Animals, slaughter 161
see AJMERE MUNICIPALITIES REGULATION, 1886.
Armed band, apprehension 160
Beef, sale 161
Bengal Regulations deemed in force 156
Cattle, new, register of 159
Decree, time for payment to be fixed and effect of non-payment . . . 158
Dower contracts 160
Extent 155
Fines, recovery 160
Istimrardar, investiture of, with police powers 160
Law in force in certain cases relating to Hindus and Muhammadans . . . 156
not expressly provided for . . . 156
Police 158
Pre-emption, right of 156
loss of 157
suit to enforce 157
Religious place, shooting, sale of flesh 161
Repeals 155
Revenue other than land revenue, recovery 161
Rules, additional power 161
penalty for breach 161
Shooting, *see* religious place.
Track law 159
Vakils, Court of, recovery of money due under award of 160
AJMERE MUNICIPALITIES REGULATION, 1886 171
Amended 237
Animals, slaughter of 193
Application of regulation 172
Bathing and washing places 193

AJMERE MUNICIPALITIES REGULATION, 1880—*contd.*

Buildings, dangerous and unsanitary 197
See streets; untenanted
Burial and burning places 193
Business, conduct of 178
Camels 203
Chairman and Vice-Chairman 176
Casual vacancy 177
Chief Commissioner. Powers of — in default of committees 206
to make rules 207
Committees, constitution and organization. 173
where committee exists, consequences . . . 175
default of, *see* Chief Commissioner.
suspension of action by 205
Compensation 201
Contracts 181
Control 205
Cultivation, injurious to health 193
Definitions 171
Direction posts, destruction 204
Dogs 204
Drains 196
Election, powers to except from rules regarding 211
See representation.
Elephants and camels 203
Entry and inspection 194
Extent 171
Extraordinary powers in emergencies 205
Firearms 203
Grounds, unsanitary 197
Immoveable property, taxes 185
Inflammable materials (*explosives*) 194, 199
Inspection, *see* entry.
Irrigation, injurious to health 193
Joint Committees 178
suspension of 205
Lamp posts, destruction 204
Land acquisition 209
Limits, alteration of 210
Local area, exclusion and inclusion of, respectively 210
Manure, injurious to health 198
Members to be notified when elected or appointed 178
Liability of 208
Municipal fund and property 188
Notices 201
Octroi 187
Offences 202
Offensive and dangerous trades 198
matter 193

AJMERE MUNICIPALITIES REGULATION, 1886—*contd.*
Officers and servants 180
Penalties 204, 208
Powers, exercisable from time to time 210
Privies 196
Prosecutions, cognizance and saving of, under other laws 209
suspension 204
Public Institutions, management 190
Quarrying 204
Representation and election, system and rules 173
Rules 207
procedure for making 209
Streets and buildings 190
encroachment on 204
Taxation 181
appeals 184
limitation 184
power to exempt from 184
recovery 209
See immoveable property.
Tolls 187
Trades, *see* offensive and dangerous.
Unsanitary buildings and grounds 197
Untenanted buildings 198
Waterpipes 196
Withdrawal from operation 211
AJMERE REPEALING AND AMENDING REGULATION, 1914 244
Enactments, amended and repealed 244
AJMERE RURAL BOARDS REGULATION, 1886 214
Casual vacancies 216
Control 220
District and sub-district, formation 215
District Boards 215
duties 217
incorporation 217
Fund 219
Extent 214
Forms 221
Local Boards 215
Local Rate 214
Members, election, term of office, resignation 215, 216
liability 221
removal 216
Officers and servants 218
Rules 221, 223
AJMERE TALUQDARS LOAN REGULATION, 1911 239
Claims 240, 241

AJMERE TALUQDARS LOAN REGULATION, 1911—*contd.*
Loan 239
Application 239
Contents 240
Disposal 242
Rules 244
AJMERE TALUQDARS RELIEF REGULATION, 1872 100
Accounts, keeping of 105
Benefit of Regulation, procedure as to application for and contents of application 101
Claims when barred 102
Consequences, when notice of management issues 102
Definitions 101
Debts against property under management, procedure as to payment . 103, 104
Disputed debt 103
Judicial proceedings, investigation to be 105
Jurisdiction of courts barred when property under management . . . 102
Manager, powers of 104
to be public servant 105
Oath, power to administer 105
Property in possession of mortgagee 104
Rules 105
Statement to be evidence 105
Suits against persons acting under Regulation, barred 105
Taluqdar, appointment of, as manager 104
Disabilities of, during management 105
Procedure when conditions not fulfilled 104
(s) named in schedule 106—108
Witnesses, attendance 105
AJMERE VILLAGE SANITATION REGULATION, 1895 236
Conservancy Rules 237
Definitions 237
Extent 236
Penalty 237
AMENDING REGULATION, *see* AJMERE.
ANIMALS, SLAUGHTER 161, 193
ATTACHED ESTATES, ETC., *see* BENGAL—.
BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827 20
Management 21
Regulation V of 1799 modified 21
BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS AND ESCHEATS REGULATION, 1810 9
Endowments, appropriation 10
Lands granted for public buildings, superintendence 10
or public buildings, private use of 10
Local Agents, appointment 11
Duties 11
Nasul property, superintendence 11
Object of Regulation 12
Private rights, saving 12
Ruined buildings, disposal 10
Trust, administration of 12

BENGAL CHAUKIDARI ACT, 1856 24
Amended 45
Appeal from assessment and limitation 28
Application 25
Assessment, collection and remittance 30, 31
Panchayat may revise existing 27
Assessment, Magistrate's amendment 27
period of 28
publication of 29
revision of 28
Chaukidars, determination of number 26
duties and badges 33
grades, wages and payment 26, 34
Panchayat to report as to misconduct, etc. 29
penalty for refusal to assist 33
punishment 34
Registry and appointment 30
Contingent expenses 30
Defaulters, how to be dealt with 31
Definitions 34
Distraints, and table of fees 31, 39
Extortion, penalty for 32
Fines, disposal 34
Formation of unions for purposes of Act 25
Forms 35—38
Funds, disposal of surplus 30
Jemadars and Inspectors, appointment 30
Levy of existing assessment till revision 25
Limits of towns and cities may be defined 25
Lodgers, assessment of houses let to 25
Magistrate and Commissioner, control over proceedings of 34
Name of street or number of house, penalty for removal 25
Panchayat, constitution 27
Duration 29
Duties as to chaukidars 29
Form of requisition to 27
Non-resident, may be appointed member 27
Penalty for refusal to serve 29
Residents only bound to serve on 29
Vacancies 29
When magistrate may assume function 29
Sales of property, conduct of, etc. 31, 32
Sadar Panchayat, appointment and duty 30
Summons 31

BENGAL CHAUKIDARI ACT, 1856—*contd.*
Tax, determination of amount to be raised 26
Exemption 26
Limitation 26
Nature 26
Rate, ascertainment of 26
Tax-collectors, appointment 30
Tax-darogah, Penalty for obstructing and charges against 32
BENGAL FOREIGN IMMIGRANTS REGULATION, 1812 13
Apprehension of leaders 14
Disposal of property 14
Punishment for exciting disturbances in country of origin 14, 15
Removal of Emigrants 13
BENGAL STATE OFFENCES REGULATION, 1804 2
Establishment of Martial Law 3
Governor General may order trial by ordinary Courts 4
Punishment 4
Suspension of functions of ordinary Criminal Courts 3
BENGAL STATE PRISONERS REGULATION, 1818 15
Allowances, custody and welfare of prisoners 17
Arrest 16
Estates, attachment and management 18
not liable to sale in execution 18
release from attachment 18
satisfaction of decrees against 18
Warrant 16
BENGAL TROOPS TRANSPORT AND TRAVELLERS ASSISTANCE REGULATION, 1806 . . 4
Assistance to travellers 8
Claims for injuries 7
Enquiries into complaints 5
Payments 6
Supplies to marching troops 5
BENGAL TROOPS TRANSPORT REGULATION, 1825 18
Fines 20
petition against 20
Inquiries and appeals 19, 20
Penalty for withholding supplies 19
BENGAL WILLS AND INTESTACY REGULATION, 1799 1
Appointment of Administrators to manage estates 2
Security from and allowances to Administrators 2
CANTONMENTS, *see* EXCISE REGULATION, HACKNEY CARRIAGE, VACCINATION.
CHARITABLE ENDOWMENTS, *see* BENGAL—.
CHAUKIDARI, see BENGAL—.
COURTS, *see* AJMERE—.
EASEMENTS, *see* INDIAN—.
ESCHEATS, *see* BENGAL CHARITABLE ENDOWMENTS.
EXCISE REGULATION, 1915 257
Acts VIII of 1878, VIII of 1894 (except section 6), XV of 1910 not affected . 260
Acts XII of 1896, VII of 1906 repealed 278

EXCISE REGULATION, 1915—*contd.*
Cantonments 263
Confiscation 271
Control 260
Definitions 258
Duties and Fees 264
Excisable article, import, export and transport 261
manufacture, possession and sale 261
Exemption 278
Extent 258
Licenses 266
Offences 271
Officers, and their powers 260
Penalties 268, 272
Repeals 278
Rules 276
EXPLOSIVES, *see* MUNICIPALITIES REGULATION (inflammable materials).
FERRIES, *see* NORTHERN INDIA FERRIES ACT, 1878.
FOREIGN IMMIGRANTS REMOVAL 13
FORESTS, *see* AJMERE—.
see AJMER AND MERWARA PRIVATE FORESTS PRESERVATION.
GAMBLING, *see* PUBLIC GAMBLING ACT, 1867.
GOVERNMENT WARDS, *see* AJMERE—.
GUARDIAN, *see* GOVERNMENT WARDS REGULATION.

HACKNEY CARRIAGE ACT, 1879 59
Disputes as to fares 62
Fees, disposal of, in Municipalities and Cantonments 62
Operation, power to extend 61
Municipalities, application to 60
Rules, confirmation and publication 60
for cantonments 60
provisions of 61
penalty of breach 62
power to make and rescind 60
IMMIGRANTS, *see* FOREIGN—.
INDIAN EASEMENTS ACT, 1882 73
Accessory rights, extinction 83, 91
Compensation for damage by extinction or suspension 91
Construction of references to Acts IX of 1871 and XV of 1877 74
Disturbance of easements 86
Easements generally 74
Extent 74
Extinction, suspension and revival 87
Imposition, acquisition and transfer 77
Incidents of easements 82
Licenses 92
Savings 74
INFLAMMABLE MATERIALS 194, 199
INTESTACY, *see* BENGAL WILLS AND INTESTACY REGULATION, 1799.

IRRIGATION REGULATION, 1887, *see* AJMERE— .
LAND, ALIENATION OF, *see* AJMERE ALIENATION OF LAND REGULATION, 1914.
LAND AND REVENUE, *see* AJMERE—.
LAWS REGULATION, *see* AJMERE—.
MUNICIPALITIES, *see* AJMERE—.
NORTHERN INDIA FERRIES ACT, 1878 51
Amended 94
Approaches, payment for use of 55
Arrest without warrant 58
Boats, etc., powers as to taking possession of 58
Civil Court's jurisdiction barred 58
Damage by offender, assessment 58
Definition 51
Extent 51
Lease, cancelment of 53
Surrender of 53
Passenger, offending 57
Penalties 56, 57
Powers, delegation 59
Private Ferries, claims for compensation, on being declared public ferry . . 52
Plying of, within limits of public ferries and penalty . . . 54; 56
Rules 56
Public Ferries 52
Letting of tolls 53
Management 52
Proceeds, disposal of 52
Rash Navigation 57
Recovery of arrears from lessee 53
Repeals 51
Rules 53, 56
breach of, penalty 57
Tolls, &c., compounding for 56
disposal of 55
private ferries 56
unauthorized, penalty for 56
PRIVATE FORESTS PRESERVATION, *see* AJMER AND MERWARA—.
PUBLIC BUILDINGS, *see* BENGAL CHARITABLE ENDOWMENTS.
PUBLIC GAMBLING ACT, 1867 40
Definitions 41
Entry and search 42
Evidence 43
Extent 41
Games not affected 44
Indemnification of witnesses 44
Informer, reward 45
Instruments of gaming in public streets, destruction. 44
Fines, recovery 45
Penalties, and subsequent offence 45
Street gaming and bird fighting 44

PUNJAB LAND REVENUE ACT, 1887 (ss. 33-40, 44-46 AND 98) 95
PUNJAB LAWS AMENDMENT ACT, 1875, *see* VILLAGE-WATCHMEN.
QUARRIES AND QUARRYING 112, 131, 204
REPEALING AND AMENDING REGULATION, 1914, *see* AJMERE.
REVENUE, land } Recovery 148
other than land . } Recovery 161
water . . . } Recovery 225
RURAL BOARDS REGULATION, 1886 214
SCHEDULED DISTRICTS ACT, 1874, enactments declared in force or extended under . 279
SLAUGHTER, *see* ANIMALS.
STATE OFFENCES 2
STATE PRISONERS 15
TALUQDARS LOAN, *see* AJMERE TALUQDARS LOAN REGULATION, 1911.
TALUQDARS RELIEF, *see* AJMERE TALUQDARS RELIEF REGULATION, 1872.
TRAVELLERS ASSISTANCE 8
TROOPS TRANSPORT 4, 18
VACCINATION ACT, 1880 64
Cantonments, extension to 66
Rules for 68, 69
Child, unfit 67
Circles 66
Definitions 65
Extent and application 64
Fee 67
Fines, crediting of 70
Inoculation 66
Lymph 67
Magistrates 68
Municipalities, extension to, and withdrawal 65, 66
Rules 68, 69
Notice 68
Offences, punishment 70
Private vaccinators 67
Rules, provisions of 69
VILLAGE SANITATION REGULATION, 1895, *see* AJMERE—.
VILLAGE-WATCHMEN 46
Arrest without warrant of obstructives 48
Establishment of system, rules 46
Obligation to assist 48
Rules 46, 49
penalties for breach 49
when valid 49
Taxes, notice of, procedure and power to fix rate 48
rules for collection 49
WATCHMEN, *see* VILLAGE-WATCHMEN.
WARDS, *see* AJMERE GOVERNMENT WARDS REGULATION, 1888.
WILLS AND INTESTACY, *see* BENGAL—.

CALCUTTA : PRINTED BY SUPDT. GOVT. PRINTING, INDIA, 8, HASTINGS STREET.

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D. C. Anand & Sons, Peshawar.*

Manager, Newal Kishore Press, Lucknow.*

* Agents for the sale of Legislative Department publications only.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE AJMER CODE

CONTAINING THE UNREPEALED

ENACTMENTS LOCALLY IN FORCE IN AJMER-MERWARA;

WITH

AN APPENDIX CONSISTING OF A LIST OF THE ENACTMENTS WHICH HAVE BEEN DECLARED IN FORCE IN, OR EXTENDED TO, AJMER-MERWARA BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874;

AND

A CHRONOLOGICAL TABLE AND AN INDEX.

FOURTH EDITION.

CALCUTTA:

OFFICE OF THE SUPERINTENDENT GOVERNMENT PRINTING, INDIA

1917

Price Two Rupees and annas eight.

English price, Three Shillings and Nine Pence.

PREFACE.

THIS, the fourth edition of the Ajmer Code, brings the laws in force in the province of Ajmer-Merwara down to the end of 1915. It has been prepared on the same lines as the previous edition, the preface to which is reproduced.

S. C. GUPTA,
Legal Assistant, Legislative Department, Government of India.

SIMLA;
The 30th August, 1916.